U. S. DEPARTMENT OF LABOR
CHILDREN'S BUREAU
JULIA C. LATHROP, Chief

ILLEGITIMACY LAWS OF THE UNITED STATES

ANALYSIS AND INDEX

By

ERNST FREUND
PROFESSOR OF JURISPRUDENCE AND PUBLIC LAW
UNIVERSITY OF CHICAGO LAW SCHOOL

EXCERPT FROM LEGAL SERIES No. 2
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LETTER OF TRANSMITTAL.

U. S. DEPARTMENT OF LABOR,
CHILDREN'S BUREAU,
Washington, May 22, 1919.

SIR: Herewith I transmit the second report issued by the Children's Bureau on the subject of illegitimacy. The first was a translation and brief analysis of the Norwegian laws affecting children born out of wedlock.

This second report contains the exact text of the illegitimacy legislation of the United States, France, Germany, and Switzerland, together with an analysis of the legislation of the United States prepared for the bureau by Ernst Freund, professor of jurisprudence and public law at the University of Chicago Law School. A tabular analysis and a reference index of the illegitimacy laws of the United States are also included in the report.

The material of this report is issued in two forms—one containing Mr. Freund's comment on illegitimacy legislation, the tabular analysis, and the reference index, and the other containing, in addition, the text of the laws.

That the child born out of wedlock should not be punished, but protected, is the guiding principle in modern work for the care of such children as are thrown upon the community for support. In the legislation which formulates the relation of the natural child to his parents and to the community, this principle is also beginning to appear. The need for improved legislation is evident, but legislative changes might well follow careful study of the various angles from which improvement has been attempted in this country and abroad.

Mr. Freund was assisted in the preparation of the tabular analysis by Mr. Roy Massena and Mr. Clay Judson. The reference index was prepared by Mr. Carl A. Heisterman of the Children's Bureau. Miss Anna Kalet of the Children's Bureau assisted Prof. Freund in the compilation and translation of the text of foreign laws.

Respectfully submitted.

JULIA C. LATHROP, *Chief.*

Hon. W. B. WILSON,
Secretary of Labor.

ILLEGITIMACY LAWS OF THE UNITED STATES.

ANALYSIS AND INDEX.

COMMENT ON THE ILLEGITIMACY LAWS OF THE UNITED STATES.

Statutes relating to illegitimacy must be read in connection with the common law upon that subject. The common law as well as the interpretation of the statutes is found in the judicial decisions. The English decisions will be found collected in Halsbury's Laws of England, Vol. II, title, Bastardy; the American decisions in the Corpus Juris of the American Law Book Co., Vol. III, title, Bastards (written by Edward C. Ellsbree).

The common law of England, which is also the American common law, is more unfavorable to the illegitimate child than the civil law of Rome, on which the continental legal systems are based, mainly in two respects: It does not recognize a legal relationship even between the mother and the child and it does not allow legitimation by subsequent marriage. The bastard is described as "filius nullius," and this designation characterizes his status from the point of view of the law of property. The natural relationship is, however, recognized for the purpose of applying the law prohibiting marriage within the degrees defined by law (R. *v.* Brighton, 1 B. & S. 447, 1861), and the natural claims of the mother are given effect in determining the right to the custody of the child (Queen *v.* Nash 10 Q. B. 454, 1883), the intimation thrown out by an English judge in an earlier case (re Lloyd, 3 M. & G. 547, 1841) that the mother is not different from any stranger, being repudiated in the later decision.

English legislation has done nothing to alter the civil status of the child, but has confined itself to what may be described as measures of police. The legislation of Queen Elizabeth (1576), in addition to certain correctional provisions (see Blackstone, Bk. IV, p. 65), introduced the system of compelling support by the father, which has remained the main feature of the English bastardy law, and which has been taken over by the American States. The duty of the mother to maintain the child was established by the poor law amendment act of 1834 (4 and 5 William IV, ch. 76, sec. 51). The law relating to support by the father (bastardy or affiliation proceedings) was amended by a number of statutes, the last of which was enacted in 1918. The workmen's compensation act of 1906 gives the benefit of its provisions to illegitimate dependents and parents or grandparents dependent upon illegitimates. An act of 1858 (21 and 22

Vict., ch. 93) permits proceedings for a decree declaring the petitioner to be the legitimate child of his parents, but without in any way touching the substantive law or the law of evidence concerning legitimacy, so that the act has no bearing upon the law of illegitimacy.

American legislation has been more active. The English type of bastardy-support legislation has been taken over by nearly all the States and continues to be the dominant feature of our laws concerning illegitimates. In contrast to England, however, there has been also considerable legislation concerning the status and the civil rights of illegitimates. In part this legislation undertakes merely to enact rules of the common law, the acts laying down the presumptions regarding illegitimate birth being of that character. In part the legislation alters the common law by establishing rules more favorable to legitimates. As early as 1785 Virginia introduced the three reforms most conspicuous in this respect: Making the issue of certain annulled marriages legitimate; adopting the civil-law principle of legitimation by subsequent matrimony; and creating rights of intestate succession between the illegitimate child and the mother. It is remarkable that the neighboring State of North Carolina should not have adopted the second of these principles until 1917, New Jersey not until 1915, New York not until 1895; but the three reforms have become law in most of the States, with various modifications. Until recently there has been little legislation bearing on the status of the illegitimate child with reference to the father or greatly altering the father's obligations; the last few years have, however, witnessed some important changes in this respect, and radically new departures were undertaken in two States in 1917. The stagnation of legislative thought on this important subject which characterized most of the States during the greater part of the nineteenth century appears to have come to an end, but the lines that are likely to be taken by new legislation are not clearly marked out.

The following brief analysis of American illegitimacy legislation attempts merely to outline its main features.

The subject will be considered under the following heads: Illegitimacy in relation to marriage and birth; The illegitimate child and the mother; The illegitimate child and the father. Bastardy-support legislation naturally connects with the third of these categories.

1. ILLEGITIMACY IN RELATION TO MARRIAGE AND BIRTH.

The child born out of wedlock, and the presumption of legitimacy.

The problem of illegitimacy is mainly concerned with children born of unmarried mothers. However, the law recognizes the possibility that the child of a married woman is not the child of her hus-

band and therefore illegitimate. There is by the common law a strong presumption that a child born of a married woman is the child of her husband and therefore lawful. The presumption is not indisputable, and contrary proof is admitted now somewhat more readily than it was under the earlier law, when it was contended that nothing short of the husband's absence beyond the seas during the period of conception or his apparent incapacity for procreation would suffice to overcome the presumption (Coke on Littleton, 244a). At present it is sufficient to prove that the husband did not have intercourse with his wife during the relevant period, while it is not sufficient to prove that other men had intercourse with her at the time. On general principles of the law of evidence, however, neither husband nor wife may testify as to the fact of intercourse or non-intercourse, but the proof must be furnished by other means.

The matter of presumption is dealt with by statute in a number of States. Louisiana appears to have the fullest provisions in that respect. Georgia (Code, sec. 3012) expresses the rule of the common law by providing:

> All children born in wedlock, or within the usual period of gestation thereafter, are legitimate. The legitimacy of a child thus born may be disputed. Where possibility of access exists, except in cases of divorce from bed and board,[1] the strong presumption is in favor of legitimacy, and the proof should be clear to establish the contrary.

Oregon and North Dakota provide that the presumption that the issue of a wife cohabiting with her husband who is not impotent is legitimate is conclusive and indisputable (North Dakota, sec. 7935; Oregon, sec. 798), this provision being intended to be part of a codification of the common law. "Cohabiting with her husband" should, perhaps, be construed to refer to actual access and intercourse; if so construed, it expresses the common law.

California and the States following it (North and South Dakota, Montana, Oklahoma) express the ordinary presumption in favor of the legitimacy of a child born in wedlock, but add that the presumption shall be disputable only by the husband, the wife, or a descendant of either. The latter restriction would make it impossible for a collateral heir to prove illegitimacy in order to establish his own right to succession.

A number of States have special provisions regarding the relation of a decree of divorce to the legitimacy of children, which, in so far as divorce means the dissolution of a valid marriage, are believed to express merely the common law; these provisions will be noted hereafter. The same is probably true of the provision of the Code of Georgia (sec. 3012), also found in Alabama (sec. 3807), that if pregnancy existed at the time of the marriage, and a divorce is sought and

[1] A child conceived after judicial separation from bed and board is not covered by the presumption of legitimacy. (Halsbury, Vol. II, sec. 720.)

obtained on that ground, the child, though born in wedlock, is not legitimate.

Child born before the marriage of the parents.

It is the fact of birth, and not of conception, out of wedlock that renders issue illegitimate. A child born after marriage is legitimate though it is evident that it was conceived before, subject to the proof of illegitimacy, as in other cases.

A child born before marriage, according to the common law of England, is not legitimized by the marriage of the parents. In 1235 the Parliament of Merton repudiated the civil and canon law doctrine of "legitimatio per subsequens matrimonium," declaring "nolumus leges Angliæ mutari."

Legitimation by subsequent matrimony has been introduced by statute in many American States. A number of the statutes express the requirement, which in any event must be implied, that the child, in order to be legitimized, must be acknowledged or recognized as his own by the person marrying the mother, or that the mother shall marry the reputed father (North Carolina). The provision that the child is legitimated by the father adopting him into his family (Oklahoma) will regularly be satisfied by the father marrying the mother. In a few States (Colorado, Maine, Kansas) marriage of the parents with acknowledgment of the child, or acknowledgment alone (South Dakota), gives the latter a right of inheritance without in terms legitimating him. Rhode Island, Delaware, South Carolina, and Tennessee seem as yet to lack such provision for legitimation. The desirability of such legislation is obvious. Legitimation is preferable to giving merely a right of inheritance, since it takes care of the duty of support. The right of inheritance, in case of legitimation by subsequent marriage, is peculiarly qualified in Nebraska, where it is given only if the parents have other children; until 1914, in New Jersey, it was given only if the parents had no legitimate children.

Issue of void and voidable marriages.

The difference between void and voidable marriages—a matter involved in much difficulty, owing to the operation of statutes upon canon-law and common-law doctrines—is of importance with reference to the status of the offspring. The issue of a void marriage is illegitimate. Bigamous marriages and marriages vitiated by lack of mental capacity are instances in point. If a voidable marriage was annulled by judicial decree, it was regarded as void ab initio and the issue was likewise illegitimate. However, the common law would not allow a voidable marriage to be annulled after the death of one of the parties (1 Blackstone, 434; Salkeld, 548), and death would thus make it impossible to question the status of issue which to all intents and purposes became legitimate.

Voidable marriages were not only those concluded under fraud or duress but also those within the prohibited degrees of consanguinity or affinity. An act of 1835 (5 and 6 W. IV, ch. 54), however, rendered all marriages between persons within the prohibited degrees of consanguinity or affinity "absolutely null and void to all intents and purposes whatsoever," with the effect of bastardizing the issue.

In America marriages within the prohibited degrees are generally declared by statute to be void and not merely voidable. In the absence of saving legislation the issue of these marriages must therefore be held illegitimate, as well as the issue of voidable marriages annulled by judicial decree.

LEGISLATION LEGITIMATING THE ISSUE OF VOID OR ANNULLED MARRIAGES.

Legislation legitimating the issue of void or annulled marriages is common in America, and is of more or less extensive scope, as follows:

1. In a large number of States the issue of all void marriages is declared legitimate: Alaska, Arizona, California, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Texas, Utah, Virginia, West Virginia, Wisconsin.

2. The saving is restricted in the case of bigamy to innocent marriages (Indiana).

3. An exception is made from the saving to the prejudice of incestuous marriages and those between persons of different color in Kentucky.

4. The issue of bigamous marriages is specially saved—

(*a*) If the marriage was innocent or in good faith either on the part of both or on the part of one: Maine, Massachusetts, District of Columbia, Hawaii, Indiana, Kentucky, Wisconsin, Nebraska, Michigan, New York.

(*b*) Made legitimate only as to the one capable of contracting marriage: Nebraska, Michigan, New York.

5. Where one of the parties is a lunatic, the issue is legitimate as to the other (competent) party: Maine, Massachusetts, Vermont, New York, Kentucky, Michigan, Nebraska, Wyoming, Hawaii. In several of these States the saving extends to invalidity on account of nonage; in Michigan to annulment for fraud.

6. The issue of incestuous marriages is made legitimate generally in Oklahoma; with a restriction to the period prior to annulment in Alabama; with a restriction to cases of affinity in Pennsylvania.

7. The issue of validated marriages is declared legitimate in Texas, and, with particular reference to cohabitation between former slaves, in many States.

8. In North Carolina issue is not bastardized if the marriage has not been annulled during the lifetime of one of the parties, except where the marriage was between persons of different race or color.

Congress by act of March 22, 1882 (22 Stat. L.) legitimized the issue of Mormon (polygamous) marriages born before January 1, 1883.

Oklahoma favors legitimacy by permitting marriage below the normally required age where the object of the marriage is to settle a bastardy action.

LEGISLATION DECLARING THE ISSUE OF CERTAIN MARRIAGES ILLEGITIMATE.

There is, on the other hand, legislation expressly declaring the issue of certain illegal marriages illegitimate:

a. In case of incestuous marriages or marriages within the prohibited degrees in Massachusetts, Maine, New Hampshire, Vermont, Michigan, Hawaii, and Rhode Island.

b. In case of marriages between persons of different race in Florida, Kentucky, and Nebraska.

c. In case of bigamous marriages in Florida, and, if the same have been annulled, in New Jersey and Kentucky.

d. The law of Illinois has a saving of the issue of divorced marriages except in case of bigamy; the provision for divorce does not apply to incestuous marriages, for which likewise there is no saving provision.

THE LAW OF LOUISIANA.

The law of Louisiana is altogether peculiar. A distinction is made between the illegitimate offspring of persons who at the time of conception might have legally contracted marriage with each other and the offspring of persons to whose marriage there existed at the time some legal impediment (art. 181). The latter are designated as adulterous or incestuous bastards. Adulterous or incestuous bastards are not legitimated by subsequent marriage (which is possible where the connection was not incestuous), nor can they attain through acknowledgment the status of "natural children" (202–204), nor can they be adopted (214). Even the right of alimony apparently exists only against the mother and her descendants (art. 245; but see arts. 242 and 920). It follows from these provisions that the issue of marriages void either by reason of bigamy or of relationship, so far from having a preferred status, are stigmatized beyond redemption. This is the reverse of the policy adopted by most other States.

COMMENT ON THIS LEGISLATION.

If the marriage contract is vitiated by an initial defect, the illegitimacy of the issue follows as a logical result, whether the marriage be void or voidable, and it requires some positive rule of law to avoid this result. The rule forbidding the ecclesiastical courts to entertain a suit for nullity after the death of one of the parties to the apparent marriage legitimized the issue of many marriages that fell under the ban of the canon law, but there was no similar saving principle for marriages annulled by the operation of common law or statute, and the reduction of the province of the canon law operated to increase the number of cases of illegitimacy.

There is no need for explaining the policy of saving legislation on behalf of the issue of void marriages; we should ask rather: What is the purpose of withholding legitimation in specified cases of nullity or of express bastardization of the issue in similar or in other cases?

The idea of incestuous or of bigamous marriages is abhorrent to common instincts, and a widespread and deep-seated prejudice exists against miscegenation between races of different color; it is therefore perhaps not surprising that there should be a tendency to carry the invalidity of such unions to every logical consequence. Where, moreover, a formal celebration of a marriage is made mandatory and an informal or so-called common-law marriage is made illegal and null, it will be asked, What is the sanction of such a rule, if the issue of the union is not made illegitimate?

On the other hand, however, it is necessary to consider the legal and practical effect of illegitimacy in such cases. The most conspicuous effect is the loss of the right to inherit. The parent can overcome this by giving through a will what the law denies (a special exception will be noticed later on), but from the point of view of the child it is a pure penalty. There are indeed cases where the withholding of a right to inherit seems justifiable, as e. g., if a wealthy woman should be inveigled into a marriage without her consent (insanity, duress, etc.), it may be contended that offspring in such a case has no claim to share in her or in her family's wealth. But cases of this kind should be carefully considered and specified; and a mere vindictive tendency on the part of the legislator is apt to go wrong. Thus we find some statutes providing that in case of a bigamous marriage the issue shall be legitimate with reference to the party who was competent to marry or the party who was in good faith; yet it is this very party who (or whose relations) may desire to repudiate claims to inheritance on the part of the offspring, while the guilty bigamist is morally bound to take care of the issue. The legislature apparently views this problem purely from the point of view of the lawful wife of the bigamist and her children and safeguards her and their interests at the expense of innocent children. The problem is certainly one deserving careful attention.

Another question concerns the right of children of void or voidable marriages to a name. Ordinarily the illegitimate child bears the name of the mother. Can any good reason be given why, if the union is to be stigmatized, the child should bear the name of the mother, perhaps innocent, rather than that of the father, perhaps guilty?

There remain to be considered custody and support. If the issue of the void marriage is illegitimate, these belong to the mother. There may be no difficulty as to the custody; but the duty of support may be unjustifiable if laid upon the mother alone. The policy of legislation has been for centuries to place part of the burden upon the father; yet upon examination the bastardy laws will be found to be ill suited, or not applicable at all, to the issue of an annulled marriage. Under these circumstances to declare issue illegitimate is to

relieve the father of an obligation. The need for legislation may not be urgent in view of the scarcity of cases of this kind, and of the great probability that children will be cared for; yet there ought to be a provision making it the duty of the father to support the child. Some statutes relating to annulment of marriages give appropriate powers to courts in making decrees of nullity (Connecticut, 5293); but it will be observed that incestuous and bigamous marriages are void without a decree.

A strong case exists for extending to all the States the provision legitimating the issue of void and voidable marriages, or at least of making provision for support and for considering the question of inheritance.

Divorce and illegitimacy.

A considerable number of States have provisions in their divorce statutes relative to the legitimacy of the issue of the divorced marriage, to the effect either that the decree shall not affect the legitimacy of the issue or that the question of legitimacy may be determined by the court or as at common law. If divorce is clearly distinguished from an action of nullity, there can be no ground for holding that divorce in itself bastardizes the issue born before the dissolution of the marriage. A provision may be proper to prevent the ipso facto bastardization of issue conceived before, but born after, the divorce. At common law, however, the presumption of legitimacy may be overcome by positive proof that the husband is not the father of the child; and it serves a valuable purpose to permit, in an action for divorce on the ground of the wife's adultery, the question of the legitimacy of issue to be raised and determined, since without such provision the question, in order to be decided, has to arise incidentally to some litigated question,[1] and the wife's adultery is capable of being established without involving the legitimacy of any child.

There is only one case in which legitimacy is necessarily involved in an action for divorce; and that is where divorce is obtained on the ground of antenuptial pregnancy, since the divorce will not be granted if the husband could have been himself the father of the child. Alabama, Georgia, and Kentucky make express provision for this. The action in such a case is rather for annulment than for divorce. The ground of annulment in such a case is fraud, and the cause of action presupposes that the man is ignorant of the pregnancy. Where a person marries a woman knowing her to be pregnant, he thereby conclusively admits paternity; and any other person is thereby relieved. (62 Iowa 343; 43 Ohio St. 473.)

[1] Indiana seems to be the only State to permit a special proceeding to establish legitimacy or illegitimacy, which, however, is confined to the case of a prior undissolved marriage unknown to one of the parties.

Miscellaneous provisions regarding illegitimate children and relationship.

Notwithstanding the occasional reference in statutes to the legal disabilities of bastardy, the bastard, both at common law and under modern legislation, has the same legal capacity as any other person; the disabilities attaching formerly under other legal systems to illegitimate birth with reference to the right to be admitted to certain callings, guilds, etc., have disappeared.

Modern legislation recognizes, however, the social stain that attaches to illegitimate birth by occasional provisions seeking to shield the child from this stigma.

Thus, while the standard form of birth registration adopted by the United States Bureau of the Census requires the certificate to state whether the child is legitimate or illegitimate, a few States provide that in such a case no identifying data be given, and registration officers are forbidden to disclose facts from which the fact of legitimacy or illegitimacy may be discovered, except on order of a court. (See the provisions of the laws of Massachusetts, the District of Columbia, and Minnesota.) In Massachusetts and New York the record of an adoption proceeding must not disclose whether the child is legitimate or illegitimate. More commonly the law seeks to shield the parents, and particularly the name of the father is not required to be given if the child is illegitimate. The provision of the law of Hawaii requiring the mother of an illegitimate child to state in the certificate of birth the name of the father is unique. It may finally be observed that Minnesota in 1917 took care to substitute the word illegitimate for bastard in the statutes where the latter term occurred.

2. THE ILLEGITIMATE CHILD AND THE MOTHER.

The dependent status of the married woman at the common law resulted not only in the absolute dormancy of any legal rights of the mother during the lifetime of the father but exerted its influence even after his death; for the father had power by deed or will to appoint a guardian for his minor children, and the statute granting or confirming this power (1670) ignored any rights of the mother. With such an attitude toward the rights of the lawful mother it is not surprising if we hear little of the rights of the illegitimate mother. She is first recognized in criminal legislation, correctional measures being provided for by statutes 18 Eliz. c. 3, and 7 James I, c. 4 (Blackstone IV, 65). An act of 1623 made it punishable as murder if a lewd woman concealed the birth of her child and the child was found dead, unless she proved that it had been born dead. (Stephen, History of Criminal Law, III, 118.) The concealment of the birth and death of a child has since been made an offense without reference

to illegitimacy. (Criminal law amendment act, 1828, sec. 14.) The poor law amendment act of 1834 gave the illegitimate child the settlement of the mother and imposed upon her a duty of support; and her neglect to maintain the child when able to do so, whereby the child becomes chargeable on the parish, is punishable. (Poor law amendment act, 1834.) The English statute does not appear to recognize other reciprocal rights and obligations between mother and illegitimate child until the workmen's compensation act of 1906, which takes care of actual dependency though based on illegitimate parentage.

The mother's custody of the child was recognized by the courts from the end of the eighteenth century where the child was taken from her by force or fraud, a grant of habeas corpus under such circumstances not necessarily implying a legal right in her to the person of the child. (R. *v.* Soper, 5 Term R. 278, 1793; R. *v.* Hopkins, 7 East 579, 1806.) But in 1883 the court of appeal conceded that the natural relationship gave rise to a right of custody. (Queen *v.* Nash, 10 Q. B. 454.)

The English law has never admitted any right of intestate succession between mother and illegitimate child.

For America we must assume the continued existence of the English common law (unaffected by English statutes) in the absence of proof to the contrary.

The courts of Connecticut have held that by the custom of that Colony and State the relation of the mother to the illegitimate child is substantially the same as to a lawful child, carrying with it rights of inheritance, and enabling the child to take under gifts to the issue of the mother, if "lawful" issue is not expressly specified. (5 Conn. 228, 6 Conn. 35, 12 Conn. 165, 88 Conn. 269.) No such change of custom has been asserted for any other jurisdiction, but a legal relation between mother and child seems to be tacitly assumed. Georgia, where the common law is in a manner codified, declares the mother to be the only recognized parent of the illegitimate child (3028).

American legislation has, however, recognized the relation between mother and illegitimate child in such a manner as to approximate the status to that of lawful parent and child. In this departure it had no English models to follow; the English legislation regarding concealment of birth and death—either confined to illegitimates or generalized—has, however, been generally taken over into our criminal codes. The most important statutory change of the common law is that relating to the right of inheritance; there are in addition scattered provisions relating to custody, guardianship, apprenticeship, and adoption to be noted.

Right of inheritance.

The statutes naturally distinguish the right to inherit from the illegitimate child and the right to inherit from the illegitimate mother, the latter right being not so commonly granted as the former. Thus, New York in the Revision of 1828, while giving the mother the right to inherit from the child, expressly declared the illegitimate incapable of inheriting (1 R. S. 753, 754, secs. 14, 19), while Massachusetts in the same year established reciprocal rights, as Virginia had done as early as 1785.

The States differ as regards the right to inherit from the kindred of child or mother as the case may be, and the statutes of each State must be consulted on this point; for the purposes of this summary the following observations will suffice.

The possibilities to be considered are:

1. AS REGARDS INHERITANCE FROM OR THROUGH THE CHILD.

a. The mother inherits from the child.
b. The mother inherits from the child's descendants (or other kindred).
c. The mother's kin (or specified near kin) inherit from the child.
d. The mother's kin (or specified near kin) inherit from the child's descendants (or other kindred).

2. AS REGARDS INHERITANCE FROM OR THROUGH THE MOTHER.

a. The child inherits from the mother.
b. The child inherits from the mother's kin (or specified near kin), particularly from other illegitimate children of his mother.
c. The child's descendants (or other kindred) inherit from the mother.
d. The child's descendants (or other kindred) inherit from the mother's kin (or specified near kin).

(See Dickinson's appeal, 42 Conn. 491, 509.)

A particular problem is presented in adjusting succession rights of or from illegitimates to claims of lawful relatives: Should illegitimate children take from the mother when she has lawful children, and should they take what the mother has received from her lawful husband? Should illegitimate children take only from other illegitimate children or also from her lawful children?

The natural order should, of course, be adhered to; i. e., the mother should not be admitted to succession in concurrence with the children or issue of the illegitimate, nor in preference to, or perhaps not even in concurrence with, the illegitimate's lawful spouse.

There is some danger in overlooking these common orders of priority where succession rights based on illegitimacy are introduced by separate legislation. Thus, in 1917 Delaware gave the illegitimate an unqualified right of succession from the mother, thereby, if effect were given to ordinary rules of construction, ousting the rights of the mother's lawful children; and a number of States in giving the

mother a right to inherit from the illegitimate child, ignore the prior claim of any husband or wife which the illegitimate may leave, and recognize merely the preferred right of the illegitimate's own issue.

In Kansas and New Mexico the mother is preferred, as an intestate heir, to the father, where the latter has acknowledged paternity. In Louisiana the reciprocal rights of succession depend upon formal acknowledgment by the mother. (Code, 918, 922.) In the District of Columbia the child does not inherit the mother's real estate if the mother was incapable of making a will (958).

Unless the legislature deliberately desires to exclude or subordinate illegitimate children where there are lawful children of the same mother, or desires to limit the right of succession so far as the mother's kindred are concerned, the simplest and adequate method of dealing with the matter is to declare that for purposes of applying the law of intestate succession or of descent and distribution, the relation between the mother and her kin and her illegitimate child and the kin of the child shall be the same as if the child were the lawful child of the mother. This is practically done, although with somewhat imperfect phrasing, in Florida (2292), and, likewise, in a rather circumstantial manner, by the Pennsylvania act of 1917; and the elaborate provision of Illinois seems to have the same effect.

Custody and guardianship.

In several States there is an express provision that the mother is the natural guardian of her illegitimate child (Arkansas, Missouri, Vermont); the provisions in other States (North and South Dakota, Oklahoma, Wyoming, and Arizona) that the mother may appoint a guardian for her illegitimate child, born or unborn, presupposes such natural guardianship. Missouri also entitles the mother to the child's earnings and binds her to support it to the extent of such earnings. In many States the settlement or residence of the illegitimate child follows that of the mother. In Hawaii and in Pennsylvania the child bears the name of the mother.

It has been seen that even in England the law now recognizes the rights of the illegitimate mother over the person of the child, and the right of natural guardianship may be assumed for all States. Such right is incidentally recognized in many States by provisions authorizing the mother to bind the illegitimate child as an apprentice, as the father may his lawful child. This is a matter of relatively slight importance now; but the same recognition is found in most of the adoption laws of the American States. Where these require the consent of the natural parent, such consent, for the illegitimate child, is always required to be obtained from the mother. The provisions dispensing with consent in case of unfitness or abandonment are the same for illegitimate mothers as for legitimate parents

and are consequently of no particular significance in connection with the law of illegitimacy. Mississippi and South Carolina also expressly recognize the relation between mother and child in the wrongful-death act.

In view of the various provisions recognizing as between the mother and the illegitimate child one or more if not all the incidents of parenthood, it is safe to say that they sustain to each other the legal relation of parent and child. From this it would also follow that the mother is liable to the penalties of the modern abandonment statutes which speak of abandoning one's child or minor child or child under a specified age. While there seem to be no judicial decisions directly in point, this is probably due to the fact that an abandonment act contemplates primarily delinquency on the part of the father.

The peculiar position of the illegitimate mother is recognized in Massachusetts and New Hampshire by giving her the right to give up the child while it is under the age of 2 years to the State board of charities. In these States this operates as a consent to the adoption of the child by another, and in Michigan, likewise, an institution to which an illegitimate child is surrendered by the mother gives the required consent to the adoption of the child.

The law might be considerably simplified by a general declaration to the effect that for the purpose of all legal rights and obligations an illegitimate child should be deemed to be the legitimate child of its mother. Such is the German law, Civil Code, section 1705: "The illegitimate child has in relation to the mother and to the relatives of the mother the legal position of a legitimate child." It might be proper to contain a reservation for gifts made to or in favor of the "lawful" issue of a woman; but ordinary rules of construction would probably exclude the illegitimate child under such a form of gift, as is also recognized in Connecticut. (88 Conn. 269, 282.)

3. THE ILLEGITIMATE CHILD AND THE FATHER.

In general.

As before stated, the relation between the father and the illegitimate child is recognized by the common law in one respect, namely, for the purpose of counting the degrees within which marriage is prohibited. (R. *v.* Brighton, 1 B. & S., 447.) American statutes have adopted this principle by making the law regarding incestuous marriages apply to illegitimate as well as legitimate relationships. Knowledge of the relationship is not required to invalidate the marriage, though it probably is for the purpose of treating incest as a crime.[1] For all other purposes the father and the illegitimate

[1] Expressly so provided in English punishment of incest act, 1908, sec. 1. This act also applies to illegitimate relationship (sec. 3).

child are by the common law strangers to each other. A father may receive an illegitimate child into his family and treat it as his own, and he may remember it by will, but if he gives to his children by a named woman, not his wife, generally, so as to include children other than those recognized by him as such at the time of the will, the gift is held in England to be void for uncertainty, since the law will not inquire whether children born by a woman through illicit intercourse are born of this or that particular man. For this civil purpose, then, the English law adopts the principle of the French Code, superseded only in 1912, that inquiry into paternity will not be undertaken. The will may, however, give to the children of the woman, or even to the children of the woman who are reputed to be the testator's, since the testator's actual paternity in that case is irrelevant. (Hastie's Trusts, 35 Ch. D., 728.)

The statute law of England takes cognizance of the relation between father and illegitimate child only in the bastardy support legislation, to be more fully noted presently, and the workmen's compensation act of 1906 (sec. 13).[1]

American legislation.

a. Legitimation.—While most American States provide for legitimation of illegitimate children by the marriage of the parents, only a minority of States permit legitimation without such marriage. Such provision may be desirable where the death of the mother prevents a marriage to the father.

Legitimation where permitted is either formal or informal; if formal, either through a judicial proceeding or without one.

Legitimation by judicial proceeding is found in Alabama, Georgia, Mississippi, North Carolina, and Tennessee. The method is a simple petition for a decree or order legitimating the child, and, if so desired, giving him the name of the father; the latter consequence, it seems, does not need special provision. The right to inherit is generally expressed in terms; this provision, if, as in Mississippi, confined to declaring the child the heir of the father, is calculated to throw doubt on the right of the father to inherit from the child, which is a consequence of legitimacy. The reciprocal right is expressly declared in North Carolina.

In Michigan legitimation is effected by a writing executed and recorded like a deed; the child becomes legitimate to all intents and purposes. In Louisiana legitimation requires a notarial act.

California illustrates the type of informal legitimation: "The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into

[1] The national insurance act, 1911, defines dependents as including such persons as the approved society or insurance committee shall ascertain to be wholly or in part dependent upon his earnings (sec. 79). The war-pension legislation likewise speaks of "dependents."

his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth."

The same or a similar provision is found in (among other States) Arizona, Maine, Montana, Oklahoma, North and South Dakota, Nevada, and Utah.

Where no provision is made for legitimation (i. e., in the majority of States), practically the same effect can generally be accomplished by adoption. (See, e. g., Vermont, sec. 3757.) Adoption may have the advantage of not disclosing the fact of illegitimate parentage and birth, which outweighs the theoretical benefit of removing the stain of illegitimacy by formal legitimation. If adoption may leave the child outside the scope of gifts made to the issue of the adopting person, the same doubt may arise in case of legitimation, for it is not clear that a gift to the lawful issue of a person would apply to legitimated issue.

A difficulty exists under adoption laws like that of Illinois where a person may adopt only a child not his own. Here there is no way of giving the illegitimate child a better status after the mother has died. An act of Illinois of 1915 expressly allows a person to adopt the child of his wife, but the difficulty with regard to the illegitimate child is not removed.

Where the mother is alive, legitimation should not be permitted, except by marrying her, or without her consent, if the father is married to some other woman. Under the existing laws regarding legitimation, difficult questions may arise as to the respective rights of father and mother after legitimation, illegitimate competing with legitimized parentage. (Templeman *v.* Brunner, 42 Okla. 6.) Where the mother is alive and the father can not marry her, adoption seems the more appropriate proceeding, since the adoption laws take cognizance of the rights of the natural parent.

b. Rights of inheritance.—Some States give, without express legitimation, a right of inheritance to a child in case of acknowledgment by the father. California attaches this effect to an acknowledgment in writing, but so that the child does not represent the father in inheriting from the latter's kindred.

Kansas grants this right as follows: "[Illegitimate children] shall inherit from the father whenever they have been recognized by him as his children; but such recognition must have been general and notorious, or else in writing" (3845). The provision in New Mexico is the same. Iowa, and since 1917 also Wisconsin, add to the latter provision a right to inherit from the father whose paternity has been

proved during his lifetime, but in Wisconsin (as in California) the child does not inherit as representing the father.

In these States, if the recognition is mutual the right of inheritance is reciprocal, but in Kansas and New Mexico the mother is preferred as an heir to the father.

South Carolina recognizes legitimation by adoption. In that State a father who has a wife or lawful children may not as against them give or bequeath to an illegitimate child more than one-fourth part of his estate, and this restriction also applies after the child is adopted, and is in that event extended to the child's right to inherit (3454, 3575, 3798).

Congress in 1887 annulled the laws of the Territory of Utah recognizing the capacity of illegitimate children to inherit and declared that no illegitimate child should thereafter be entitled to inherit from the father, with certain savings. This legislation is superseded by the present laws of the State of Utah.

c. Law of Louisiana.—In Louisiana the law recognizes the special status of natural children. These are illegitimate children acknowledged by the parents or either of them, the relation between the parents being such that at the time of conception they were legally capable of contracting marriage. Natural children inherit from the parent who has acknowledged them (but not from the relations of the parent); in the case of the father, if there are no lawful relatives or wife to inherit, i. e., only to the exclusion of the State; from the mother, if she leaves no lawful children or descendants. On the other hand, the natural child, dying without posterity, transmits his estate to the acknowledging parent or parents,[1] or if they be dead to the natural brothers and sisters (arts. 918–923). The natural child is further restricted in his capacity to receive property by gift or by will from the parent. If there are legitimate descendants, the permissible portion is measured by the needs of the child; if none, it is one-fourth or one-third of the property according to the proximity of the lawful heirs (1483–1488). Adulterine or incestuous children can under no circumstances receive more than bare sustenance.

d. Other provisions.—Besides the provision for legitimation and inheritance, the most important legislation bearing upon the relation between father and illegitimate child is that looking toward compulsory support, which makes the bulk of bastardy legislation and which will be considered separately.

A right of custody is rarely recognized, but is conceded in Illinois to the father after the child has reached the age of 10, and before if the mother is unfit.

A number of recent workmen's compensation acts include among children entitled to the benefit of the act either illegitimate children

[1] If not acknowledged, not even to the mother. Succession of Lacosst, 77So., 479, 1918.

in general (Nevada) or acknowledged illegitimate children (Idaho, Indiana, Kentucky, Louisiana, Hawaii, New Mexico, New York, and Vermont) or children legitimated prior to the injury (Montana, Oregon, and Washington).

In Minnesota, by a law of 1917 (ch. 222), the father of an illegitimate child, who has acknowledged paternity in writing or against whom the fact of paternity has been adjudged, is entitled to notice in proceedings for the adoption of the child.

The statutory provisions relating to the illegitimate father make it clear that the law does not recognize the normal relation of parent and child as subsisting between him and the child.

It follows that abandonment acts which speak of a child or minor child, and do not expressly refer to the illegitimate child, do not apply to the latter: so held in New York (People *v.* Fitzgerald, 167 App. D. 85); District of Columbia (Moss *v.* U. S. 29 App. D. C. 188).

The abandonment acts applying to illegitimates will be noted in connection with the support laws.

It is finally necessary to notice the radically new legislation of North Dakota, enacted in 1917, which declares every child the legitimate child of its natural parents, but apparently limits this broad principle by the failure to provide equally broad remedies; for the law provides that the mother may within one year from the birth of the child sue to establish paternity, and makes the mother incompetent as a witness if the father is dead. How if the mother fails to sue within the year? How if she dies in childbirth? Is the operation of the act dependent upon the formal establishment of paternity? If not, what purpose is served by a one year's limitation of the proceeding? The limitation can certainly have only the effect of embarrassing and throwing doubt upon the operation of the main provision of the act.

North Dakota also provides (1915, ch. 183, sec. 8) that an illegitimate child born in a maternity hospital shall be given the name of the father, if known.

4. LEGISLATION FOR THE SUPPORT OF THE ILLEGITIMATE CHILD.[1]

The character of the legislation.

English and American laws take cognizance of illegitimate paternity mainly for the purpose of enforcing against the father a duty of support. Historically the legislation is connected with the system of poor relief. The method of proceeding is adapted to parties who are indigent or irresponsible. The statutes partake of the character of criminal legislation and are sometimes found in

[1] Most mothers' pension laws have reference to children born in wedlock; some laws are not specific; unmarried mothers are expressly provided for in Michigan, and by a bill at present (April, 1919), pending in Nebraska.

the parts of codes or revisions dealing with crimes. In the course of a full discussion the Supreme Court of Massachusetts says (Hill *v.* Wells, 6 Pick. 104, 1828):

> This process being neither wholly civil nor criminal, but having many of the features and incidents of each, we are left to determine from the manner in which the legislature has treated it whether they intended to include it in the one or the other class of suits. And they might well, in some respects, treat it as a civil, and in others as a criminal, suit.

Warrant and commitment are borrowed from criminal procedure; statutes use the term "guilty," "conviction," and "fine"; Georgia speaks even of the mother as an offender; in Pennsylvania an indictment is found against the alleged father.

On the other hand, the fact that the defendant may be proceeded against in his absence and the finding against him be based upon a mere preponderance of proof stamps the proceeding as civil. We find it distinctly provided that while the prosecution shall be in the name of the State, the rules of evidence and of competency of witnesses, and the trial, shall be governed by the law regulating civil suits. (Indiana, 1015, 1018; Kansas, 4026.)

In most States the proceeding is exclusively against the father; but in New York a mother possessed of property and failing to comply with an order of support may be committed until compliance or execution of an undertaking; and the regular compulsory proceedings for the support of poor relatives may be expressly made available against the mother of an illegitimate child. (Iowa, 2250.)

The absence of a common-law duty of support bears upon the construction of statutory clauses proclaiming a duty of maintaining illegitimate children in general terms. If the duty is a purely statutory one, the method pointed out by statute for enforcing it must be pursued as the exclusive remedy; if the duty were a common-law duty, it might be contended that a suit at common law was available as a cumulative remedy. Such general clauses are, however, very exceptional.[1]

It should also be borne in mind that the only remedy at common law to enforce a duty of support is a suit for reimbursement by one who has furnished the support. A direct action to enforce support brought by the child or on its behalf against the father is unknown to the common law.

The absence of a common-law duty should also be considered when it becomes a question of making family desertion and nonsupport laws applicable to illegitimate children, as is done in a number of States. The offense of deserting one's family is different from the offense of not supporting an illegitimate child, and to cover the two offenses indiscriminately by one provision tends to

[1] Moncrief *v.* Ely, 19 Wend. 406.

confuse different kinds and grades of obligation. There is likely to be a disposition on the part of legislative bodies to differentiate and to treat the default with regard to illegitimate children as an offense of less degree.

English bastardy law.

The foundation of the English bastardy law is found in 18 Elizabeth, ch. 3, 1575–1576, which reads as follows:

> Concerning bastards begotten and born out of lawful matrimony, (an offence against God's law and man's law) the said bastards being now left to be kept at the charges of the parish where they be born, to the great burden of the same parish, and in defrauding of the relief of the impotent and aged true poor of the same parish, and to the evil example and encouragement of lewd life: (2) it is ordained and enacted by the authority aforesaid, That two justices of the peace (whereof one to be of the quorum, in or next unto the limits where the parish church is, within which parish such bastard shall be born, upon examination of the cause and circumstance) shall and may by their discretion take order, as well for the punishment of the mother and reputed father of such bastard child, as also for the better relief of every such parish in part or in all; (3) and shall and may likewise by like discretion take order for the keeping of every such bastard child, by charging such mother or reputed father, with the payment of money weekly or other sustentation for the relief of such child, in such wise as they shall think meet and convenient: (4) and if after the same order by them subscribed under their hands, any the said persons, viz. mother or reputed father, upon notice thereof, shall not for their part observe and perform the said order; that then every such party so making default in not performing of the said order, to be committed to ward to the common gaol, (5) there to remain without bail or mainprise, except he, she or they shall put in sufficient surety to perform the said order, or else personally to appear at the next general sessions of the peace, to be holden in that county where such order shall be taken, (6) and also to abide such order as the said justices of the peace or the more part of them then and there shall take in that behalf (if they then and there shall take any), (7) and that if at the said sessions the said justices shall take no other order, then to abide and perform the order before made as is above said.

It will be observed that, while there is a perfunctory reference to lewdness and to bastardy as offenses against God's law and man's law, the main purpose of the act is to relieve the parish from the burden of support, and that the liability for such support is placed upon mother and reputed father alike. The liability of the father as against the mother is not emphasized until the act of 49 Geo. III, ch. 68 (1809). (Nicholls, History of English Poor Law, II, 138.)

The original legislation thus remained practically unaltered for over 200 years. An act of 1844 (7 and 8 Vict., ch. 101) further modified the principle of the earlier law by giving the primary claim for support to the mother instead of, as theretofore, to the poor-law authorities. The bastardy acts of 1872 (35 and 36 Vict., ch. 65) and 1873 (36 Vict., ch. 9), which constitute the present law upon the subject, again give the poor-law authorities the right to proceed where the child has become chargeable to the public. An act of 1914 provides for the appointment of a collecting officer to enforce the payments

to be made by the father. An act of 1918 raises the amount of the weekly allowance. Bastardy support proceedings are treated in English law books generally under the title "Affiliation."

The English Forms in Bastardy Proceedings, dated March 13, 1915, are fully set forth in volume 79, Justice of the Peace, pages 152, 164, 176, 187.

American legislation.

Bastardy support legislation, following the lines of the English law, was introduced in America at an early period. The state of the law at the beginning of the eighteenth century in one of the colonies is set forth in Capen's History of the Poor Law of Connecticut as follows:

It was not many years after the settlement of Connecticut that the birth of bastards compelled attention. Laws against fornication were enacted. The earliest penalty was one or more of the following: "enjoining to marriage, or fine, or corporal punishment." In 1702 the punishment was made either a fine of 5 pounds or 10 stripes, inflicted on each party.

The support of bastards received careful consideration. At first each case was decided on its merits. Thus, in 1645 the general court ordered the mother and reputed father of such a child to be whipped, but placed the entire support of the child upon the father.

The need of a general law was seen, and in the revision of 1673 it was included. Its special purpose was to define the requirements for the conviction of the father.

For the child's support the law provided that where any man is legally convicted to be the father of a bastard child, he shall be at the care and charge to bring up the same, by such assistance of the mother as nature requireth, and as the court from time to time (according to circumstances) shall see meet to order.

This principle of joint support has ever since been followed.

To convict, it was enacted that if on the trial the court was not satisfied as to the identity of the father by confession or "manifest proof," "then the man charged by the woman to be the father, she holding constant in it (especially being put upon the real discovery of the truth of it in the time of her travail)," should "be the reputed father, and accordingly be liable to the charge of maintenance as aforesaid * * * notwithstanding his denial"; unless the circumstances of the case and pleas in his behalf led the court to acquit him, and "otherwise dispose of the child and education thereof; provided always in case there be no person accused in the time of her travail, it shall not be available to abate the conviction of a reputed father."

This method of adjudging a man the reputed father and obliging him to assist the mother in supporting the child became the regular method, and was retained until 1702. It should be noted that this law did not make the accusation during travail essential to conviction.

Several changes were made by the laws of 1702. The interests of the defendant were guarded by requiring the examination of the mother at the trial to be upon oath and by making the accusation in time of travail necessary to conviction. The provision of the law of 1673 for a conviction by confession or "manifest proof" was stricken out, perhaps because it was found impossible ever to secure such.

On the other hand, the person convicted was required to give security to perform the order of the court "and to save the town or place where such child is born, free from charge, for its maintenance." He might be committed to prison until he found sureties.

The last important change was that exclusive jurisdiction was given to the county courts. All that an assistant or justice of the peace might do was to bind over to the county court one charged or suspected of having begotten a bastard. The county

court might order the continuance or renewal of the bond, in case the child was still unborn when the case was called.

The nature of the obligation may be seen from a judgment rendered some years later under this law. In 1723 the county court in New Haven ordered a reputed father to pay for the support of his child 2s. a week until the child became 1 year old. The general court, on an appeal, adjudged that such a sentence was strictly in conformity with the law, although the defendant had been acquitted by a jury on the charge of fornication.

One other law regarding bastardy deserves brief notice. The general court in 1699, in view of a recent occurrence in Farmington, enacted, in practically identical form, a Massachusetts law of 1696 to punish the concealment of the death of a bastard. For concealing the death of a child who, if born alive, would have been a bastard, the mother was to suffer death as in the case of murder, unless she could prove by the testimony of at least one witness that the child was born dead.

There were no radical changes in the eighteenth century, and laws enacted in the early stages of independent State government have in many cases remained practically unaltered until very recent times or until the present day. The most striking feature of bastardy legislation is its stationary character, indicative of a lack of thought or movement as regards the relation of the father to the illegitimate child, or perhaps to a certain extent also of an extreme conservatism of sentiment. In Massachusetts, until the new act of 1913, the leading features of the law of 1785 were retained; Georgia's law is still substantially that of 1793; the law of New York, contained in the Code of Criminal Procedure of 1881, is substantially a copy of the law found in the Revised Statutes of 1828 (I, p. 640); in Ohio there has been no radical change since 1824; in Florida, since 1828; in Iowa, since 1840; in Illinois, since 1845; in Alabama and Kentucky, since 1852. Strikingly new legislation, however, was introduced in Minnesota and in North Dakota in 1917.

The usual features of statutory bastardy proceedings are: A complaint by a woman who is pregnant or has been delivered of a bastard child to a magistrate (justice of peace); a warrant issued by the magistrate against the person named in the complaint with direction to appear at a hearing; a preliminary hearing at which the accused may exculpate himself; if there is a prima facie case against him, an order binding him over for trial, which takes place after the birth of the child; a trial or hearing, at which a jury may be demanded; judgment, if against defendant, providing for maintenance of child; maintenance through periodical payments; enforcement of these payments and security for the same.

The proceedings are regulated with varying fullness, Pennsylvania, Florida, and Iowa being types of brief statutes, while very full provisions are found in Vermont, New York, New Jersey, Delaware, Indiana, Kansas, Utah, and Hawaii.

A purely civil obligation to support an illegitimate child, enforceable by civil suit, was created in California by act of 1913 (sec. 196a,

Civil Code). Since at common law the liability of the father to support his lawful child (assuming it to exist as a legal liability) is not the subject of a direct action by the child against the father, some method of enforcing this obligation had to be indicated, and this was done by reference to the provisions for enforcing the duty of the divorced husband to provide for the maintenance of wife and children.

Bastardy, i. e., the begetting of an illegitimate child, is made a misdemeanor and prosecuted as such in Pennsylvania (fornication and bastardy), Nevada, and Massachusetts (under the recent act of 1913).

The duty of maintenance can likewise be enforced by criminal prosecution, where nonsupport or abandonment laws are made to apply to illegitimate as well as to legitimate children. This is the case in California, Colorado, Connecticut, Delaware, Massachusetts, Nebraska, New Hampshire, Ohio, Pennsylvania, West Virginia, and Wisconsin. The same is true, in effect, of the law of Minnesota (1917), which State also punishes the father who absconds in order to avoid proceedings while the woman is pregnant or within 60 days after the birth of the child.

The following jurisdictions are, as far as ascertainable, without bastardy support legislation: Alaska, Idaho, Missouri, New Mexico, Texas, Virginia,[1] and Washington.[2] For the District of Columbia such legislation was not enacted until 1912; for Oregon not until 1917. The absence of legislation in Missouri has been commented on judicially (Easley *v.* Gordon, 51 Mo. App., 637).

An abstract of several statutes representing the types of legislation above indicated will be useful as an introduction to a discussion of particular features of bastardy laws and a comment upon them.

The briefer form of enactment providing for the ordinary proceeding will be illustrated by Florida; the longer, by Illinois; the civil obligation, by California; the criminal liability, by Massachusetts; the civil action in the name of the State, by Iowa.

The law of Florida, as a type of a brief support-enforcing act.

A single woman, pregnant or having been delivered of a bastard, may complain to a county judge or justice of the peace of her district and accuse some one of being the father of the child. Process is then issued against the person accused to bring him before the magistrate, and upon his appearance the parties and their evidence shall be heard. If sufficient cause appears, the accused is bound in bond with security to appear at the next term of the circuit court in the county. In the circuit court the issue is tried by a jury. The reputed father has the right to appear by counsel. If the issue is

[1] A bastardy act of Virginia was repealed by the Code of 1887.
[2] In 1919 a bastardy support law was enacted in Washington.

found against him, he is condemned by the judgment to pay the expenses attending the birth of the child at the discretion of the court, and $50 yearly for 10 years toward the support and education of the child. The defendant shall give bond, with security approved by the court, for such payments to be made to the mother. The bond has the effect of a judgment, and execution may issue as often as money becomes payable. If the child is not born alive, or dies, the bond becomes from then on void. On failure to comply with the judgment the defendant is imprisoned for a term specified by the court, not to be longer than one year.

The law of Illinois, as representing the more elaborate type of the support-enforcing law.

An unmarried woman, pregnant or delivered of a bastard, may complain to a justice of the peace of the county in which she is pregnant or delivered, or where the accused may be found, and accuse on oath a person of being the father. The justice thereupon issues his warrant against such person, to have him brought before him or some other justice. The warrant may be executed in any county of the State.

Upon appearance of the accused, the justice in his presence examines the woman on oath. The defendant may controvert the charge. If sufficient cause appears, the accused is bound in bond with sufficient security to appear at the next county court (in Cook County, in the criminal court). On neglect or refusal to give bond and security the accused is committed to the county jail. The issue is tried by a jury, the defendant having the right to controvert the charge.

The case is continued until the birth of the child and until the mother is able to appear, the defendant being placed under recognizance to appear. The mother and the defendant are competent witnesses, their credibility being left to the jury. If the jury find for defendant, he is discharged and the mother is liable for the costs. If the issue is found against the defendant or he confesses, he is condemned to pay not exceeding $100 for the first year, and not exceeding $50 yearly for nine succeeding years, for the support and education of the child, and also the costs of the prosecution. For the making of such payments he shall give bond with sufficient security. The payments are to be made in quarterly installments to the clerk of the court. On refusal or neglect to give security, the defendant is committed to the county jail until he complies with the order or is discharged according to law, the discharge not to be made within six months. The money is applied for the support of the child as directed by the court. If a guardian is appointed for the child, the money is paid to the guardian. Upon default in any installment,

principal and sureties in the bond are cited to show cause why execution should not issue. Execution after judgment on bond is issued against goods and chattels of the principal and sureties. Upon such default the judge has also power to adjudge the father guilty of contempt and commit him to the county jail until payment; but the commitment does not stay execution. Provision is also made for making the judgment a lien upon the defendant's real estate.

If the mother is living and desires the custody of the child, the father is not entitled to it until the child arrives at the age of 10, unless on notice to the mother and on full hearing she is found not to be a suitable person. If the child is not born alive, or dies, the bond shall from then on be void. The bond also becomes void upon intermarriage of the parents, which makes the child legitimate.

Prosecutions must be brought within two years from the birth of the child; the time during which the accused is absent from the State is not counted. The mother may release the father upon terms consented to in writing by the county judge. In the absence of such consent, a release for less than $400 is not a bar to a suit, but the amount paid is credited. For $400 the liability may be released by the mother without the consent of the judge.

The statute of California, as illustrating a general civil obligation.

The Civil Code provides in section 196a, enacted in 1913: The father, as well as the mother, of an illegitimate child must give him support and education suitable to his circumstances. A civil suit to enforce such obligation may be maintained on behalf of a minor illegitimate child by his mother or guardian, and in such action the court shall have power to order and enforce performance thereof, the same as under sections 138, 139, and 140 of the Civil Code in a suit for divorce by the wife.

Section 140 provides: The court may require the husband to give reasonable security for providing maintenance or making any payments required under the provisions of this chapter and may enforce the same by the appointment of a receiver or by any other remedy applicable to the case.

According to section 139 the court may compel the husband to provide for the maintenance of the children.

California also makes the nonsupport of an illegitimate child a criminal offense.

The law of Massachusetts, as the type of a penal statute.[1]

A person who gets a woman with child, not being her husband, is guilty of a misdemeanor. Proceedings may be instituted in a municipal district or police court either where the man or where the woman lives. If the defendant pleads guilty or is found guilty, the court enters a judgment adjudging him the father of the child. After a

[1] Laws of 1913, ch. 562.

plea of not guilty, such judgment can not be entered against him against his objection, until the child is born or the mother is found six months advanced in pregnancy. The defendant may appeal to the superior court as in other criminal cases. Subject to appeal and grant of new trial, the adjudication, whether a sentence be imposed or not, is final and conclusive.

If the court is satisfied that no living child will be born of which the defendant at the time of the complaint was the father, or that the defendant and the mother have married each other, or that adequate provision has been made for the maintenance of the child, the complaint may be dismissed and any adjudication vacated. If at the time of adjudication the child is not born, the case is continued until the child is born. A payment to the mother or a probation officer may be ordered for confinement expenses. Failure to pay may be punished as contempt of court by two months' imprisonment in jail, unless the order is sooner complied with.

After adjudication, the court may also make an order for the care and custody of the child and revise the same from time to time. After adjudication and after birth of the child, the defendant shall be liable to contribute reasonably to the support of the child during minority and shall be subject to all penalties and orders for support and maintenance provided in case of a parent unreasonably neglecting to provide for a minor child under the act of 1911, the practice of that act to be followed by analogy.

(The act of 1911, ch. 456, provides for suspension of sentence and placing the defendant on probation; the court may order him to make periodical payments to the probation officer; the court may also release him from probation on his entering into recognizance with or without surety, in such sum as the court may order. If the defendant violates the order, the court may sentence him or enforce the suspended sentence.)

Any father of an illegitimate child, whether the child has been begotten within or without the State, who neglects or refuses to contribute reasonably to the support and maintenance of the child is guilty of a misdemeanor, and upon conviction is liable to the penalties and orders provided for by chapter 456 of the Laws of 1911.

If there has been a final adjudication under the first paragraph, it is conclusive. Otherwise the question of paternity is established in proceedings under the last preceding paragraph.

The law of Iowa, as the type of a civil action prosecuted by the State.

When a woman residing in any county of the State is delivered of an illegitimate child, or is pregnant with such child, any person may complain to the district court of her residence charging the proper person with being the father. The proceeding is entitled in the name

of the State against the accused as defendant. Notice is given to the defendant by the clerk of the court. The filing of the complaint creates a lien upon the real property of the accused in the county. If the complaint is verified, the judge may order an attachment without bond, specifying the amount of property to be seized, and revocable at any time on terms. The county attorney prosecutes on behalf of the complainant. Trial is had as in ordinary actions. If the accused is found guilty, he is charged with the maintenance of the child in such sums and in such manner as the court shall direct. Execution may be issued for any sum ordered to be paid. The sum may be increased or diminished or order vacated on such notice as the judge may prescribe.

The law of Iowa lacks provision for commitment to jail, the supreme court of the State having held that this constitutes imprisonment for debt and is unconstitutional. (Holmes *v.* State, 2 Iowa 501, 1850.)

COMMENT ON PARTICULAR FEATURES.

1. THE COURTS HAVING JURISDICTION.

In the ordinary form of bastardy proceeding the jurisdiction is divided between a magistrate (justice of peace, police justice, county judge) and a court having regular jurisdiction in civil or criminal cases (circuit, district, superior; sometimes also county court). The magistrate receives the complaint, issues the warrant, and conducts the preliminary hearing as the result of which the defendant is discharged or bound over; and the court tries the case, gives judgment, and enforces it. The preliminary proceeding is dispensed with where there is simply a civil suit.

The magistrate is authorized to try the case in Delaware, New Jersey, New York, and North Carolina, subject to an appeal to the higher court. This permits a disposition, in many cases final, by a tribunal which is not confined to intermittent sittings at infrequent terms.

In the District of Columbia and in Hawaii the juvenile court is given charge of bastardy proceedings. The advantages of having bastardy proceedings, at least in their preliminary stages but preferably all through, in the hands of courts accustomed to dealing with social problems and with quasi delinquents who are not ordinary criminals are obvious; but the appropriate organs will not always be available in every part of the State. In metropolitan courts there is apt to be sufficient flexibility of organization to permit of the assignment of bastardy cases to specially qualified judges, and this is done in the municipal court of Chicago, where a branch of the court, called the court of domestic relations, takes charge of all bastardy complaints.

2. DISTRICT OF JURISDICTION.

The majority of States require the complaint to be lodged in the court of the district where the woman resides or where the child is born, and only under a relatively small number of laws (e. g., Illinois, Indiana, Maryland, Mississippi, New Hampshire, South Dakota, Utah) is the jurisdiction available in which the alleged father resides. The dominant idea seems to be that the proceeding belongs to the forum of the district which would have to bear the charges of supporting the child if the father can not be made amenable.

It will be shown later on that there are important considerations for making the forum of the defendant's residence generally available for bastardy proceedings irrespective of the residence of the mother.

The nonsupport or abandonment act of Ohio, which applies to illegitimate children, provides that the offense shall be held to have been committed in any county in which the child or pregnant woman may be at the time the complaint is made (13011, 13014), and, further, that citizenship once acquired in the State by a parent of an illegitimate child living in the State, for the purpose of the law, shall continue until the child has arrived at the age of 16 years, provided the child so long continues to live in the State (13021). Colorado has a similar provision. These provisions are apparently intended to be in aid of jurisdiction, but their effect is not entirely clear.

3. AT WHAT TIME THE PROCEEDING MAY BE INSTITUTED.

Most laws allow the complaint to be preferred either when the woman is pregnant or after she has been delivered of the child. The institution of proceedings prior to birth is permitted in order to give an opportunity for compelling the defendant to give security for appearance and compliance with support orders. In some States, particularly in New Jersey and New York, provision is also secured for sustenance during confinement and the expenses thereof. In a few States (Arizona, Nebraska, Ohio, Oregon) the law permits at the first hearing a settlement with the mother by payment or by giving security.

4. STATUTE OF LIMITATIONS.

Many statutes set a limit of time for the institution of bastardy proceedings ranging from six months (Hawaii) to four years (Utah), counted usually from the birth of the child. A limitation thus counted fails to take account of a very possible contingency. The father of an illegitimate child may maintain it or contribute toward its support for the period specified in the statute and then discontinue his payments. Any statutory proceeding would thereafter be barred by the defense that the time for making a complaint had expired. This defect is met by making the statutory period of limitation count from the

birth of the child, unless there have been payments toward its support, and in the latter event from the last payment or from the last acknowledgment of liability. A number of States guard the limitation accordingly (so Alabama and Maryland). Mississippi saves the right of the supervisors of the poor to bring proceedings.

If the begetting of a bastard child is made a crime, it will be necessary, in order to avoid the bar of the statute of limitations, to make nonsupport of the illegitimate child a distinct offense. This is done in Massachusetts.

If the father's obligation is looked upon as a continuing obligation in favor of the child, there is ground for excluding the statute of limitations altogether.

5. WHO MAY COMPLAIN.

The parties that ordinarily come in question are the mother or expectant mother and the proper authorities that would be charged with the support of the child.

Under the Iowa law "any one" may complain. Under such a provision conceivably a representative of some charitable organization might act as complainant. The right might become objectionable if the unofficial complainant or the county attorney conducting the case for him were authorized to compel the woman to disclose the name of the father. Such disclosure should be compelled only for the purpose of relieving the public of the expense of caring for the child.

Poor-law authorities are authorized to institute proceedings in many States, either concurrently with the mother or if she fails or neglects to prosecute (so in Arizona, Connecticut, Nebraska, New Hampshire, Vermont, Michigan); and in New Jersey and New York they alone can institute proceedings. Their authority was also exclusive under the first English act. Such a power will be exercised practically only if the child is liable to become a public charge. In that case it may become important to provide that the woman may be compelled to disclose the name of the father—a provision which is, of course, unnecessary if the woman acts herself as complainant. This obligation to disclose exists in a number of States if the mother is unable to give security for the support of the child. (See, e. g., Arkansas, Maryland, Georgia, North Carolina, South Carolina, Tennessee; also 4 Wend., N. Y., 555, 1830.)

Some States speak of the complaining mother as "a woman," others as "a single woman." The use of the latter term makes it doubtful whether a woman whose husband is living and undivorced can act as complainant. It is not easy to discover a clear policy favoring such restriction. In view of the strong presumptions in favor of legitimacy, frivolous or vexatious charges by married women are

unlikely. On the other hand, it may easily happen that a deserted wife or one living apart from her husband may become a mother under circumstances which make it possible at common law to establish the illegitimacy of the child. The equities in her favor may be as strong as in favor of an unmarried mother, and certainly the case of relieving the public from the charge of support is equally urgent. In view of these considerations the term "single woman" employed in the English bastardy acts has long been construed as including a woman living separate from her husband (see 1901, 1 K. B., 118), but American courts have failed to follow this construction (3 Dana, Ky., 453; 8 Vt., 70), and the term "unmarried woman" could not well be so interpreted. West Virginia makes special provision for complaint to be made by a married woman living separate from her husband for one year or more.

The question whether bastardy-support proceedings should be allowed in favor of a woman of ill repute is rightly treated not as one of right of action but merely of evidence. Louisiana and South Dakota seem to be the only jurisdictions making reference to this point, the former by providing that the oath of the mother is not sufficient to establish paternity, if she be known as a woman of dissolute manners or as having had unlawful connection with one or more other men before or since the birth of the child (art. 210); the latter, by admitting evidence of previous unchastity of the female (sec. 810). The analogy of seduction where previous chastity is required does not apply, for in bastardy proceedings it is the right of the child and not that of the mother which furnishes the primary consideration in allowing a cause of action. Unchastity is relevant, because it renders it difficult to fix the charge of paternity upon one particular man.

Statutes sometimes speak of preferring the complaint in a district where the child is chargeable. This raises the question whether bastardy-support proceedings are admissible where the mother is able to bear the charge of the child's maintenance. The connection between bastardy and poor-relief legislation seems to indicate such a restriction, but the equities on behalf of the mother favor a more liberal view. The limitation is clearly implied where only the poor-relief authorities have the right to institute proceedings, as in New Jersey and in New York.

In Tennessee the statute is explicit upon this point. It provides (sec. 7347) that the county court shall make no provision for a bastard except when he is or is likely to become a county charge, and states (sec. 7348) that the object of the provision for the bastard's support is to indemnify the county against the same.

A number of States require bastardy proceedings to be conducted or prosecuted by a public prosecuting officer (county attorney, district

attorney, State's attorney); so Iowa, Kansas, Kentucky, Montana, North Dakota, Oklahoma, Utah, West Virginia, and Wisconsin; and this would be the regular course where the proceedings are criminal. The majority of State laws are silent on the point.

Under the recent legislation of Minnesota (1917) the State board of control is authorized to initiate all legal and other action to secure proper provision for the illegitimate child.

6. PROCESS AND PRELIMINARY HEARING.

Upon a complaint in conformity to legal requirements (in writing or reduced to writing by the magistrate, including oath charging some person with being the father) the justice issues process against the person charged. Unless the proceeding is purely a civil action, this process is a warrant of arrest and not a mere summons, and either by express provision or by the application of general rules this warrant may be served anywhere in the State.

In most States the service of the warrant seems to be an indispensable prerequisite for further proceedings. Indiana permits the complaint to be heard and determined though the defendant can not be found; but it has been held that constructive service can not be made the basis of a personal judgment (Moyer *v.* Bucks, 2 Ind. App., 591; Beckett *v.* State, 4 Ind. App., 136). In New Jersey, New York, Ohio, and Wyoming an order of attachment may be issued against property of a defendant who has absconded or conceals himself; the property attached may then be sold to satisfy the order of the court.

The problem of proceeding against an absent defendant will be discussed later on.

In Iowa where the proceeding is purely civil, as well as in Montana and Oklahoma, the filing of the complaint creates a lien upon the defendant's real estate in the county, and an order may issue attaching his other property; in Indiana such lien on real estate is created if upon the first hearing a finding has been made against the defendant.

Upon the service of the warrant the defendant is sometimes permitted to give an undertaking for his appearance at the final trial; but ordinarily the arrest is followed by a preliminary hearing before the committing magistrate, who examines the complainant, and may hear evidence on behalf of the defendant; there is no power to require the defendant to testify.[1] West Virginia requires a recognizance from the accused without any provision for a hearing. If no probable cause is found, the defendant is discharged; it has been held that this discharge is a bar to subsequent proceedings (5 Hill, N. Y., 443),

[1] Alabama says the justice "may examine the accused" (sec. 6366).

and this is expressly provided in Connecticut, subject to an appeal to a higher court (sec. 6006).

If the examining justice finds a prima facie case for the complainant, he binds the defendant over for trial. That is to say, the defendant must give security that he will appear at the trial and abide by the order of the court; sometimes also that he will indemnify the county from expenses. In New York and New Jersey the security also covers the expense of confinement; in Georgia it covers the entire expense of the maintenance and education of the child until it reaches the age of 14 years. If the defendant fails to give such security, he may be committed to jail. The security is by bond or recognizance in a sum fixed by the judge within statutory limits, which vary between $200 and $2,500, and generally required to be with sufficient surety or sureties.

In Pennsylvania, under a law of 1917, the court may discharge the defendant upon his own recognizance without security.

Mississippi provides that others than the parties, officers, and witnesses may be excluded from the preliminary hearing.

7. TRIAL.

The trial is in most States held after the birth of the child. A peculiar provision in Vermont says that a woman is not compellable to answer as to her pregnancy until 30 days after delivery (sec. 3123). In Massachusetts the adjudication may be made when the mother is six months advanced in pregnancy. In New York and North Carolina, where the charge may be tried in the first instance (subject to an appeal) by the justice of the peace, this trial may likewise take place before the birth of the child, but on appeal to the sessions the defendant must be discharged if the child is not born alive.

The trial is often required to be conducted as in civil cases, which means among other things that it may be had in the absence of the defendant and that judgment may be based upon preponderance of evidence. A jury may be had on demand, but—the case not being criminal—is not indispensable to the validity of the judgment. Several States provide for the exclusion of strangers or the public from the trial, so Michigan (sec. 15700) and New York (Judiciary Law, sec. 4); in Minnesota the records of the proceedings are shielded from publicity (sec. 3225e).

8. EVIDENCE.

There are few statutory provisions regarding evidence in bastardy proceedings. The English rule that the evidence of the mother must be corroborated (sec. 4 of act of 1872) has been incorporated in the recent act of Oregon (1917) but does not otherwise prevail in America. Louisiana forbids judgment in favor of the mother upon her own oath supported by proof of cohabitation with the alleged father out

of his own house, if she has had before or since the birth of the child intercourse with other men, or if she be known as a woman of dissolute manners (art. 210). The provision in South Dakota (sec. 810) that evidence of the previous unchastity of the female shall be admissible goes beyond the rule of the common law where such evidence is admitted only to show the possible paternity of another (Corpus Juris, Bastardy, p. 990). Connecticut expressly permits evidence of good character in behalf of the person accused as being the father (sec. 6014).

A peculiar feature of the law of evidence in bastardy proceedings is furnished by the accusation in travail or extremity of labor:[1]

On general principles the deposition of the mother, made against the defendant before trial without notice to him, would not be admissible against him (1 Root, Conn., 154), but it might be different if the deposition were a dying declaration, and the statutes of Arkansas, Delaware, and Mississippi expressly admit such a dying declaration made in childbirth.

The accusation in travail which we find in the legislation of the New England States, of Pennsylvania, and of some other jurisdictions is, however, not a dying declaration, but simply a statement made concerning the paternity of the child during the labor of childbirth and constantly adhered to. Such an accusation was in the earlier New England legislation required as a foundation for bastardy proceedings, and later became merely admissible evidence, the woman being now allowed to testify as to her own statement (Akeson *v.* Doidge, 225 Mass. 574, 114 N. E. 736), while formerly when parties in interest were incompetent to testify evidence of the accusation in travail had to be given by others (2 Mass. 411).

The law of Tennessee on the subject of proof is altogether peculiar. If the mother upon oath accuses any man of being the father of the illegitimate child, the person accused is, upon the hearing at the county court, adjudged the reputed father of the child unless he file an affidavit clearly setting forth that justice requires an issue to be made to try the truth of the charge. If the affidavit denies sexual intercourse with the mother of the child from the first of the tenth month to the first of the sixth month next before the birth of the child, it shall be received as evidence on the trial (secs. 7342, 7343).

This provision can be traced back to a colonial law of North Carolina (1741, ch. 14), which requires the defendant to be adjudged the father of the child upon the charge on oath of the mother. Even now in North Carolina the finding is required to be against the defendant at the first hearing unless he deny the woman's charge under oath (sec. 254), and the woman's charge is presumptive evidence on appeal (sec. 255).

[1] The statement of the woman is also accorded special credit in the earlier French law (Beaudry-Lacantinerie, Personnes, No. 671).

9. JUDGMENT OR ORDER.

If on the trial the issue is found against the person charged, the substance of the judgment against him is an order for support, although in some States the judgment takes instead thereof, or in addition thereto, the form of a fine. Expenses for confinement are expressly provided for in a few States (Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, and Wisconsin).

The amount of the support is quite commonly in the discretion of the court or sometimes of the jury, without fixing any standard of maintenance either by the station in life of the mother or of the father. In some of the States, particularly in New England, the law merely requires that the father assist the mother in the support of the child.

Where the civil obligation of support is thrown in general terms upon the father, as it is in California, care should be taken to see that the general law of parent and child places a concurrent or subsidiary duty of support upon the mother, since otherwise she may be relieved entirely. The law of California covers this point clearly.

The order or judgment is usually not for one lump sum but for annual, monthly, or weekly payments. Under some laws the person to whom the payment is to be made is not specified, the duty being merely to pay toward the support of the child, in which case the mother would be the natural recipient; sometimes the payment is directed to be made to her; in other laws, to designated authorities (clerk of court, poor-law authorities) or to a guardian of the child; sometimes, in the alternative, to the mother, or if she be an improper person (or dead) to a person designated by the court (Indiana, sec. 1027); in Connecticut, to the selectmen, if the mother misapplies the money paid to her (6008); often "in such manner as the court shall direct." It seems that a continuing discretion of the court is the wisest form of legislative provision to care not only for differences between individual cases but for varying conditions in the same case.

In England under the act of 1844 (7 and 8 Vict., ch. 101) the payment was made to the mother, unless she was under special disabilities (unsound mind, under sentence). The law was, however, changed in 1914 (affiliation orders act, 1914): All payments are made to a collecting officer of the court, and he may proceed for recovery of payments. The collecting officer pays to the mother or to such other person as is named in the affiliation order the amount paid to him without any deduction, his remuneration (not to exceed 5 per cent of the amount paid through him) being paid out of public funds. The payments under the English act are made weekly.

The different State laws grant sums that vary greatly in amount. In North Carolina the judgment is for a fine of $10 and a single pay-

ment of $50; Arkansas gives from $1 to $3 a month; South Carolina, $25 a year; Tennessee, $40 the first year, $30 the second, and $20 the third; Maryland, which until 1912 allowed not exceeding $50 per year, changed the amount to $15 per month; Delaware allows $5 to $10 a month. The two most liberal States' allowances are not exceeding $250 the first year and $150 each of the next succeeding 10 years in South Dakota and not exceeding $200 for the first year and not exceeding $150 per year for the next succeeding 17 years in Utah.

That the legislature in fixing low amounts did not on the whole run counter to prevailing sentiment appears from the indications that reported cases give as to the allowances fixed by the discretion of courts and juries. The earlier New York cases show amounts from 50 to 75 cents a week, and as late as 1886 we find a mention of $1.50 a week (40 Hun 320). In Iowa the supreme court has held $100 the first year, with $50 annually thereafter up to a total of $700, not to be excessive.

Nor do the more liberal statutory amounts compare unfavorably with per capita allowances under mothers' pensions laws. It is apparent that the law of bastardy support is controlled by standards of poor relief. In any event the alimony is measured by the mother's and not by the father's position in life, and, although the laws may not express it in that way, it is in the nature of an assistance to her. Under these circumstances it is, on the face, a radical departure in the new law of Massachusetts of 1913 to require the father to support his illegitimate child as though the child were legitimate. Even so, if the mother has the custody, the support is in practice apt to be measured by her standard of living, and a more explicit statutory direction would be necessary to overcome this inevitable tendency. A general civil obligation of the father to support the illegitimate child, such as exists in California, is likely to work out in the same way.

The duration of the support is fixed perhaps more commonly in the statute than the amount. Where no limit is stated, as in Kansas, the minority of the child would be the maximum period. This is the stated period in Massachusetts, and California also speaks of the minor child. Colorado, Mississippi, and Utah set the age limit at 18. If in these States the statutes can be construed as entitling the illegitimate child to support beyond the age of self-support, they place such child in a position more favored than the legitimate child, which the father may by emancipation throw upon his own resources when he has become capable of supporting himself. In Vermont the duty extends for the period during which the child is unlikely to be able to support himself. Under the ordinary law of parent and child the absolute duty of support would hardly extend beyond the age of 16, which would accord with advanced standards of child-labor legislation. This is the age limit set by the Wisconsin bastardy

law, while Georgia and Hawaii name 14, which is also the age most commonly found in recent child-labor legislation. Lower age limits are, however, encountered in bastardy laws: Twelve years in Maryland (until 1912, 7 years); 10 years in Delaware, Florida, and Illinois; 7 years in Arkansas, and Tennessee provides for only three annual payments.

Provisions regarding custody are rare, the assumption being generally that the mother will keep the child. A declaratory law to that effect was enacted in New Jersey in 1913. In Illinois and Utah the father is expressly declared to be not entitled to the custody of the child until the child arrives at the age of 10, unless on notice to the mother and on full hearing she is found not to be a suitable person. This provision seems rather to imply that the adjudged father is entitled to the custody of the child by reason of his paternity. On principle, in view of the silence of the statutes and of the absence of any common-law right, the right of the father to the custody of the illegitimate child must be considered at least doubtful. The mother has the law of nature on her side. The matter should be set clear by explicit statutory provision, and the father's right to custody should be made to depend on legitimation.

10. ENFORCEMENT OF ORDER.

Peculiar provisions in addition to those for the enforcement of other judgments are called for by the periodicity of alimony payments and by the common irresponsibility of fathers of illegitimate children. The latter circumstance makes lien or attachment provisions, which are found in a few States, practically less valuable than methods which exercise a more personal pressure.

It is the rule to require the defendant who is adjudged to be the father of the child to give security for the payment of the support. This is done through the finding of sureties. In default of such security the defendant is committed to jail, and in several States the failure or refusal to comply with an order to pay is treated as contempt of court (Nevada, South Dakota, Utah). In many States (Illinois, Indiana, Maine, Michigan, Minnesota, Wisconsin, Wyoming) the imprisonment is clearly conceived in part as punishment, for it is only after a definite time has been served that the defendant on proof of inability is entitled to a discharge, his liability to pay being nevertheless continued (Arizona, Connecticut, Hawaii, Michigan). Inability entitles him to discharge, the period of confinement varying between 90 days and 1 year, or being left to the discretion of the court (New Hampshire, New Jersey, New York). The discharge is without prejudice to further proceedings in case of subsequent ability.

In Iowa the provision for imprisonment under bastardy laws was, at an early date, held superseded by the constitutional provision

against imprisonment for debt (Holmes *v.* State, 2 Iowa, 501, 1850), and that State relies under its present laws upon lien and attachment provisions; but in most of the States the imprisonment feature of the law has either not been questioned on constitutional grounds or has been sustained. In Indiana the constitutional protection has been held to apply only to strictly contractual debts. (Lower *v.* Wallick, 25 Ind. 68, 1865.)

Special facilities for compelling payment are furnished by laws which treat bastardy or the nonsupport of illegitimate children as a crime. Thus, in California, the convicted defendant may be employed on public works and an amount not exceeding $1.50 a day in payment for such work be applied to the support of the child. The law of North Carolina permits the defendant to bind himself out as an apprentice, the price being paid to the county treasurer.

In Massachusetts the court may place the defendant on probation and suspend his sentence on condition of periodical payments for a term not exceeding two years. Upon violation of the terms of the order the suspended sentence may be enforced. A similar provision is found in Colorado.

In Wisconsin the nonsupport act, which applies to illegitimate children under 16, provides that the court may instead of imposing a penalty make an order for weekly payments for a period not exceeding two years to the guardian or custodian of the child or to a trustee appointed by the court, and may release the defendant upon his recognizance to comply with such order. Upon violation of the order, the suspended penalty may be enforced and any sum recovered upon the recognizance may be applied for the benefit of the child (R. St., 1917, sec. 4587c).

To a similar statute (Laws 1917, ch. 51) West Virginia adds the provision that if a fine is imposed and not paid the parent may be required to do labor, for which a daily sum may be allowed to be applied for the benefit of the child. In Delaware (Code 1915, secs. 3033–3043) there may be a sentence to hard labor, with a daily allowance of 50 cents to be applied for the benefit of the child.

In Pennsylvania (by law of 1917, No. 145) the order for the payment to the mother of the expenses incurred at the birth of the child may be enforced, upon failure to give a bond, by imprisonment at hard labor, in which case a daily wage of 65 cents is to be paid to a person designated by the court, or the court may discharge the defendant upon his own recognizance in the custody of a probation officer; and (by act 1917, No. 290) in proceedings for willful failure to contribute to the support of an illegitimate child the court instead of imposing a fine may make an order for a periodical payment upon recognizance, with or without surety, and may suspend execution.

The provision for imprisonment at hard labor in default of payment of the judgment or of the giving of a bond is also found in Alabama (sec. 6377).

11. COMPROMISE AND SETTLEMENT.

If the theory of bastardy support legislation were the enforcement of an antecedent civil obligation of the father toward the mother, the right of the two to settle for the claim (subject to possible relief in case of fraud or overreaching) would logically follow. Where under the law the mother has the exclusive right to complain there is some plausible support for such a theory, although even then it may appear from other provisions that the mother is not the only party in interest.

Where poor-law authorities are authorized to institute proceedings, the theory of the purely civil obligation toward the mother is negatived, and the right to settle should on principle be denied;[1] and a settlement would then be merely an important factor in determining the equities of the mother and such discretion as court or jury may possess in fixing the terms of the judgment.

As a matter of legislative policy, even a liberal payment made to the mother in good faith may be an unwise provision from the point of view of the child, although normally the certainty and finality of such a disposition will outweigh its possible disadvantages. In any event the matter is a proper one for statutory regulation.

Only a few States recognize the right of the adult mother (making express exception for the infant mother) to settle with the father without any qualification (Indiana, Kansas, Oregon); a stated sum as the condition of a valid settlement is fixed in Utah ($500) and in Illinois ($400). More commonly the settlement is subject to the approval of the court or poor-law officials, or liable to be objected to by the latter. In Minnesota and Ohio the compromise payment must be coupled with a bond to indemnify the public against possible charges for relief.

12. EFFECT OF DEATH UPON THE PROCEEDINGS.

Most of the statutes contain no explicit provisions.

In Maryland, when bond has been given by the father and he thereafter dies, payment may be enforced out of his estate, with a limitation to $500, and to one-half of a child's intestate share (sec. 10 of act). In Indiana the right of action survives, if the putative father dies either before or after the commencement of the prosecution and after the preliminary examination, against his personal representa-

[1] Nevada (sec. 765) provides that no complaint shall be settled by agreement of the mother and putative father.

tives. A similar provision confined to death after the preliminary examination is found in Kansas and Mississippi.

A number of States provide that the suit shall not abate by the death of the mother if the child be living, the interest both of the local authorities furnishing relief and of the child being as strong after the death of the mother as before, if not stronger (so, e. g., Hawaii, Indiana, Kansas, Maine, New Jersey, Ohio, Vermont, Wyoming).

As regards the death of the child, it is not uncommonly provided that it shall not abate the prosecution if the mother be living, but the court on conviction shall take the death into consideration and give judgment for such sum as it may deem just. So, after judgment, the court may make the appropriate reduction in the amount payable (so, e. g., Maine, Mississippi, Ohio, Wyoming). In Rhode Island special reference is made to the expense of lying-in, and of the support, sickness, and burial of the child. In Utah the death of the child, as well as a stillbirth, avoids a bond given. In New York likewise the prosecution is dismissed if the child is born dead.

13. THE PROBLEM OF THE ABSCONDING DEFENDANT.

In practically all foreign countries the enforcement of bastardy support is a purely domestic problem, and there is no need for legislation to attempt to deal with jurisdictional difficulties. It is otherwise in the United States. Each State is for purposes of police legislation, civil or criminal, a sovereign and independent jurisdiction, and can act only upon subjects that are within its own territorial boundaries or owe it allegiance. The process of a State court does not by its own force, without the aid of interstate comity, reach those who are not within the State or residents of the State. Extradition is confined to criminal prosecutions. The United States is the only jurisdiction the scope of which is national, and the limits of the Federal Constitution do not permit national legislation dealing adequately with bastardy support in general. The possibility of national legislation permitting, where the parties are citizens of different States, suits for bastardy support to be brought in a Federal court, and making a nation-wide judicial process available for such purpose, may be dismissed as being beyond the reach of practical policy.

While thus the States are legally and jurisdictionally distinct, there is no social or economic separation. Travel and migration are easy, and to transfer one's domicile to another State involves no serious sacrifice of habit or association, particularly in the case of young unmarried men. The problem is aggravated by the fact that many of the most important metropolitan communities are close to or upon State boundaries, so that a change of residence to another State means hardly more than a change to another section of the same city.

How, then, can legislation deal with the case of the seducer moving into another State when confronted with the prospect of having to support an illegitimate child?

The discussion of available methods is confined to three alternatives: The treatment of illegitimate paternity as a crime; the attempt to hold the defendant civilly liable though he can not be served within the State; and the transfer of the proceeding from the residence of the complainant to the residence of the defendant.

Bastardy proceedings as criminal prosecutions.

Bastardy proceedings under most laws have a quasi-criminal character; they are often conducted by magistrates and courts having criminal jurisdiction and the process which is used to bring the defendant before the court is the warrant of arrest and not a summons.

Notwithstanding this the courts have generally held the proceeding, which is provided for in most of the States, to be civil, and the trial is governed by principles of civil and not of criminal law. The fact of paternity is not in terms declared a misdemeanor, and under the usual type of law it would be impossible to make it the foundation of a demand for extradition of the alleged father.

Exceptions from this ordinary type of bastardy legislation have long been known in America, and particularly in Pennsylvania bastardy legislation has from the beginning been criminal in form, the only provision for proceeding being found in a section making fornication and bastardy a misdemeanor. In 1913 Massachusetts abandoned the type of bastardy legislation which, as in other New England States, had come down from early colonial times and had remained in substance unaltered from the beginning of independent government, and made the begetting of an illegitimate child a misdemeanor.

Where the matter is thus reduced to the terms of a criminal offense it would be logical to make the act of illicit intercourse itself a misdemeanor, as is done in Pennsylvania. Otherwise there is the curious situation that an act is not criminal, while the natural consequences of the act are criminal, and yet it would be a crime to avert the criminal consequences of the noncriminal act. It is not a quite satisfactory answer to say that the legislature allows a person under such a statute to have illicit relations at his peril, taking cognizance of the forbidden act only as it results in a specific detriment to the community. Even if it is within the legislative power to lay down such a rule, its anomalous character may be an obstacle to its adoption.

If illegitimate paternity is made a crime, the following consequences should be considered, and, as far as possible, be guarded against: The woman would be an accessory to the offense, and care

should be taken that her testimony be not thereby legally weakened; the man's privilege not to testify would become an absolute constitutional right; it would be impossible to proceed against the man by default; it would be more difficult to deal with compromise and settlement, since public offenses can not be the subject of private agreement; it would become possible to prosecute the father even against the will of a mother unwilling to disclose his name and willing to assume the burden of the child's support; the statute of limitations—which for criminal offenses is usually a brief one—would run from the time of the illicit act, or from the time of the birth of the child. In order to deal with this latter difficulty, it will be necessary to make nonsupport of the illegitimate child a distinct and continuing offense, as is done by the act of Massachusetts of 1913.

While the above-mentioned difficulties are not insuperable, they call for more elaborate and qualified legislation, and the departure from the prevailing type should be offset by compensating advantages. Such an advantage is supposed to be furnished by the possibility of procuring the extradition of the absconding defendant. But while it is true that the Federal Constitution gives the right of extradition for every crime, it is also true that there is a disinclination to extradite for misdemeanors as distinguished from felonies, and it is stated for Pennsylvania that extradition from other States on the charge of fornication and bastardy can not be procured. In the enforcement of family desertion laws the same difficulty—even if an imaginary one—was encountered, and the grade of the offense was therefore raised in some States to that of felony. The wisdom of this has been questioned, and it may be expected that legislatures will hesitate before making illegitimate paternity, which is now often not punishable at all, a felony. However, in 1917 this was done in Minnesota. Extradition would not be available for nonsupport unless the defendant had been since the birth of the child a resident of the prosecuting State.

Absconding as the gist of the offense.

A novel experiment in dealing with the problem on the basis of criminal law forms part of the comprehensive legislation on illegitimacy enacted in Minnesota in 1917. Chapter 211 of the Laws of 1917 provides that if issue is conceived of fornication, and within the period of gestation or within 60 days after the birth of a living child the father absconds from the State with intent to evade proceedings to establish his paternity of such child, he is guilty of a felony and shall be punished by imprisonment in the State prison for not more than two years.

Should this form of legislation (changing, perhaps, the grade from felony to misdemeanor) be recommended for general adoption?

If the object of this legislation is to facilitate extradition, does ıe method chosen answer the purpose? Absconding from the State : the gist of the offense. When and where is the offense complete? ot until the person sets his foot beyond the boundary of the State ıd therefore is beyond its jurisdiction. Criminal legislation ordinarily ops at the boundary of the State. In order to be extradited, more-er, the individual must be a fugitive from justice. That is to say, must have been a criminal before he left the State; if his offense nsists in leaving the State, he can not be a fugitive when he leaves

This is not a mere technicality, for it is unprecedented in our w to make it a crime to leave the State. In foreign countries there the analogy of the offense of leaving the State to escape military rvice; but while a person who does this is treated as an offender, has never been contended that he is a fugitive from justice, and it ould be impossible to found a claim to extradition on the act of aving the country, though it might be based upon the act of oiding military service.

Would the matter be mended by making it an offense to abscond om the county of residence? Theoretically it might; but in many tates little would be gained, for the great metropolitan communities f New York, Philadelphia, Cincinnati, Chicago, St. Louis, Kansas ity, and others lie in border counties, and the individual might bscond without bringing himself within the law.

rosecution for abandonment and nonsupport.

It has been observed before that an abandonment law which speaks f a parent and his child or minor child does not apply to the father ith reference to an illegitimate child. Indeed the spirit and pur-ose of abandonment laws appear more adapted to the failure to erform the ordinary obligation incidental to the de facto family roup.

However, a number of States expressly include the illegitimate hild in the protection of the abandonment acts (California, Colorado, onnecticut, Delaware, Massachusetts, Nebraska, New Hampshire, hio, West Virginia, Wisconsin). Pennsylvania (Laws 1917, No. 90) makes willful noncontribution to the support of an illegitimate hild a misdemeanor. There must be considerable difficulty in pplying either the term "abandonment" or the term "willful failure support" to an illegitimate father who has not acknowledged the ild before the paternity has been established by judgment, or even ter judgment where the payment of a definite sum to the mother nstitutes the entire duty of the father, and the statute fails to tach to illegitimate paternity or to the judgment establishing it a neral duty of support. In Montana and Oklahoma such duty of pport is expressly confined to the parent entitled to the custody of

the child. The duty to support the illegitimate child is predicated in general terms in Wisconsin, West Virginia, and Delaware and particularly by the law of Minnesota of 1917; in other States it follows from the penalization of nonsupport (New Hampshire, Colorado). It must be questioned whether it is proper to cover in the same context and by exactly the same provision two such entirely different forms of delinquency as failure of duty with regard to a legitimate child, and with regard to an illegitimate child that has never been placed under the direct care of the father; as, e. g., under the law of California which provides (Penal Code secs. 270–270c) that it shall be a penal offense for a parent of a legitimate or illegitimate minor child to omit willfully, without legal excuse, to furnish necessary food, clothing, shelter, or medical attendance.

There can be no objection to placing upon the person who has been adjudged to be the father of the child a general duty of support and then making nonsupport on the part of the adjudged father a penal offense. This is the law of Minnesota (1917).

Civil proceedings against persons who can not be served within the State.

There is at present no American bastardy statute which provides for reaching a defendant who is outside of the State otherwise than by the attachment of property which he may happen to own in the State.

In the absence of specific statutory provision a defendant can not be served by publication (Moyer *v.* Bucks, 2 Ind. App., 591; Beckett *v.* State, 4 Ind. App., 136).

It may be conceded as a matter of theory that a person who has left the State without ceasing to be a legal resident of the State is still amenable to its jurisdiction and that judgment can be rendered against him upon service of process by publication and actual notice given to him outside of the State; but the legislative tendency is very strong against a personal judgment based upon such process in a common-law action.

The tendency would be rather to provide for an equitable proceeding, in which class of actions service of process by publication is more commonly resorted to, and therefore to make the proceeding primarily one to establish a fact (the fact of paternity), and secondarily to establish the existence of such obligations as the fact carries with it.

In Illinois a bill was introduced in the legislature of 1917 embodying this theory.[1] It provided that a bill of complaint in chancery may be filed for the purpose of establishing who is the father of the child. The defendant, if not in the State, may be served personally outside of the State and by publication, and if personally served without the State may be proceeded against by default. The judgment may

[1] This bill did not become a law.

then establish that the defendant is the father of the child, and that as to such father the child is to all legal intents and purposes his child. The court may in addition decree reasonable support and maintenance. The decree is to be conclusive evidence of the facts found in all subsequent proceedings, including criminal proceedings for nonsupport and like offenses.

This proposed law purports to allow proceedings against persons residing outside of the State. It will be noted that the decree makes the child to all legal intents and purposes the child of the father as to such father." Apart from the practical difficulties which such qualified legitimation would encounter in legislative bodies the State would have power only to fix the status of the resident child, but not that of the nonresident father; in other words, the imposition of the obligation to support would be without jurisdictional foundation. If the child were to be treated as illegitimate there would be the further difficulty that the "status" of illegitimacy carries at common law no rights whatever and that therefore the proceeding would characterize itself plainly as one to enforce a personal obligation of maintenance. Against nonresidents of the State the proposed law of Illinois would therefore fail of its purpose. It might be theoretically available against persons who while outside of the State continue to be residents of Illinois; but here the question of fact presents a difficulty. For a change of residence from State to State can be accomplished at the moment of migration, if there is an intent to that effect, and it would not be easy to disprove such intent against the oath of the defendant desiring to prove himself a nonresident.

Civil proceedings in the jurisdiction where the defendant resides.

The constitutional difficulty of establishing jurisdiction over a defendant outside of the State disappears if the proceedings for support are brought in the State to which he has gone. It would not be possible to permit a criminal prosecution in a State other than the one where the offense has been committed; and where the alleged father goes to another State, he does not commit an offense against the law of that State by not supporting a child which is outside the State. An obligation may, however, be made civilly enforceable although it has been contracted outside of the jurisdiction, and the opening of the State courts to nonresident mothers for the institution of civil bastardy proceedings is a matter of legislative discretion. A State can not in this way afford relief to mothers left in its own jurisdiction by absconding fathers, but only to mothers of other States where the father is found in its own jurisdiction; but in a comprehensive scheme of uniform bastardy legislation the benefit of reciprocity may furnish a sufficient inducement and justification for legislation which, considered by itself, has a somewhat altruistic

character. Even without legislation, as a matter of comity, a State permits nonresidents to sue residents upon any transitory cause of action recognized by the common law.

Ordinarily it will, of course, be more desirable for the mother to prosecute in her own domicile, but where the alleged father has absconded the difficulty of reaching him and enforcing a claim against him, either through equitable proceedings against an absent party or through criminal prosecution involving extradition, may easily outweigh the inconvenience of suing in another State and the possibility of this alternative would certainly be an advantage.

Some States even now allow a woman to sue where the defendant resides or may be found. Even though these provisions may have been intended to enure mainly to the benefit of a woman residing in another district of the same State, their wording makes them applicable in favor of a nonresident woman. Many States, however, recognize only the jurisdiction of the woman's residence or of the place of the birth of the child.

It would be a simple and effective reform to make the jurisdiction of the defendant's residence available by the legislation of every State.

Provision for both criminal and civil proceedings.

California permits a civil suit to enforce support and also a criminal prosecution for nonsupport. This shows the possibility of cumulative remedies. The prevailing type of legislation offers the advantage that the same proceeding may be used to establish paternity and to compel support by the combined resources of civil and criminal procedure. It would therefore be perhaps unwise to discard the present form of bastardy support legislation altogether. But in particular cases it may be desirable to sue to establish paternity or to enforce support by a civil action, or—after paternity has been established—to punish nonsupport and use the efficacious methods of suspended sentence and probation or of compulsory and compensated labor. It ought not to be impossible to offer all these remedies to be used either cumulatively or in the alternative, as circumstances may dictate. This is no more than what is possible in the case of many other grievances which create legal and equitable causes of action and at the same time subject the wrongdoer to criminal prosecution.

POSSIBLE CHANGES IN THE LAW IN FAVOR OF THE ILLEGITIMATE CHILD.

1. THE EXTENT OF THE PROVISION IN FAVOR OF THE CHILD.

This is plainly inadequate in most of the laws. If the payments are not too low, the period of support is certainly in most of the States too brief. Legislation should consider child-labor policies and their effects; 14 years should be regarded as the lowest age at which the

child can be expected to begin earning money, and 16 years should be the normal age to which the duty of support should extend. If extended beyond that age in cases other than incapacity of some sort, the illegitimate child would occupy a more favored position than the lawful child, who can be thrown on his own resources when capable of self-support.

As regards amounts, the upper limits are, in nearly all States in which such limits are set, too low. It is true that where the allowance is entirely within the discretion of court or jury, the amounts awarded do not seem to exceed these limits. This would seem to indicate that the statutory amounts are perhaps not grossly at variance with prevailing sentiment. There appears to be no disposition to extend the generosity commonly shown to the woman in breach of promise suits to the child in bastardy proceedings. The measure of damages in case of breach of promise to marry is not controlled by any statute, but is entirely a matter of judicial practice, and it would be a new departure in legislative policy to force upon courts or juries a greater liberality in awarding support allowances than they are in the habit of granting at present. If such a policy were adopted it would be necessary to determine upon some standard. In breach of promise suits the wealth of the defendant is commonly taken as furnishing such standard. Applied to support proceedings, this would mean that the standard of the child's maintenance would be governed by the father's position in life. The German Civil Code makes the mother's position in life controlling (sec. 1708). Considering that the child grows up with the mother and amidst her social surroundings, an allowance much exceeding the needs of a corresponding support would be incongruous and might produce untoward results. The award of a lump sum to be placed in trust for the child, applying so much of the income as is needful to the child's support, would probably be a wiser provision. Perhaps the best that can be done at present is to remove the low maximum limits, and leave the extent of support to judicial discretion to be guided by the circumstances of each case.

Particular stress should be laid upon the care of the child at the time of its birth and during its early infancy, which are the most critical stages from the point of view of conservation of human life. The laws which require larger payments for the first year than for subsequent years recognize this. The like purpose would be served by permitting at the first hearing some provision to be made to cover expenses of confinement, but in advance of the determination of paternity by regular trial, nothing can be demanded beyond security, and a provision to that effect is found in a number of States.

In this connection should also be noted the legislation for the control and supervision of institutions which are apt to have the first

care of illegitimate children, such as maternity hospitals, children's homes, etc. In Massachusetts persons receiving illegitimate children for board are required to notify the State board of charities, which may exercise a general custody for the benefit of the child (ch. 83, secs. 17, 18).

Massachusetts has also a provision (ch. 83, sec. 13) whereby the mother of an illegitimate child under 2 years of age may, with the consent of the State board of charities, give up the infant to the board for adoption; and the board may in its discretion receive the infant. The surrender operates as a consent to any adoption subsequently approved by the board.

2. PROVISIONS FOR GUARDIANSHIP AND PERMANENT CARE.

Any comprehensive scheme of reform should consider the creation of an official guardianship, in order to do full justice to the varying and developing circumstances of each case, and to standardize the legal duties of fathers toward the illegitimate offspring.

The legislation of Minnesota of 1917 marks an important step in this direction. Chapter 194 is entitled: An act to give the State board of control general duties for the protection of defective, illegitimate, dependent, neglected, and delinquent children, with authority to act as guardian of children; and to provide for child-welfare boards in the several counties of the State to aid in the performance of such duties. The powers of legal guardianship extend to cases of children committed to the board or to institutions under its management by courts of competent jurisdiction. Under the revised juvenile court act of 1917 (ch. 397) the term "dependent child" includes every illegitimate child, and every such child is therefore subject to commitment to the State board. The same act, however, also provides that the child shall not be taken from its parents without their consent, unless the separation shall be found needful to prevent serious detriment to the welfare of the child. Where the mother is faithful and only the father is delinquent in his duty the power would therefore seem normally inoperative. Section 2, which does not speak of legal guardianship, is more valuable to the child. It charges the State board of control with a general duty to take care that the interests of an illegitimate child are safeguarded and that there is secured to him the nearest possible approximation to the care, support, and education that he would be entitled to if born of lawful marriage. For this purpose the board is given power to initiate legal and other action, and to make such provision as the interests of the child from time to time require. These phrases, though liberally construed, fall short of the powers of legal guardianship; but even under a conservative construction, they permit the exercise of active

and continuing supervision and advice such as no other American legislation provides for.

Much will depend upon the administrative organization placed at the disposal of the board. It may appoint and fix the salaries of a chief executive officer and such assistants as shall be deemed necessary to carry out the purposes of the act. For a reasonably adequate solution of the problem of the illegitimate child, local as well as State organs are indispensable, and these are provided for in sections 4 and 5. Upon the request of a county board, the State board may appoint a child-welfare board for the county. This board consists of three members appointed by the State board (two women; in the larger cities five members), and a member of the county board and the county superintendent of schools ex officio; the three appointed members hold at the pleasure of the State board, and the State board determines the duties of the county child-welfare board. The county child-welfare board appoints a secretary and executive assistants; and, with the approval of the county board, fixes their salaries. Where there is no child-welfare board the judge of the juvenile court may appoint a local agent to cooperate with the State board, whose salary is fixed by the judge, with the approval of the county board. Under these provisions, while the local organization is not absolutely compulsory, there is at least a reasonable assurance that there will be a local agency wherever needed.

The State board is further aided by a provision in another law (1917, ch. 212) to the effect that the officer in charge or licensee of any hospital in which a pregnant woman or woman with a newborn child, or such child, is received for care shall use due diligence to ascertain whether the child is legitimate, and, if there is reason to believe that the child is or will be illegitimate, that he shall make report to the State board of control (sec. 8).

It is to legislation of this type that we must look for the most effectual enforcement of illegitimate support legislation.

3. POSSIBLE IMPROVEMENTS RELATING TO THE STATUS OF THE CHILD.

A survey of the entire legislation concerning the status of the illegitimate child (aside from the ordinary support proceedings) suggests the desirability of providing in all the States for—

1. A declaration that the issue of null marriages is legitimate.
2. A proceeding to establish legitimacy or illegitimacy.
3. Legitimation by subsequent marriage of the father and mother, where the father acknowledges the child.
4. The possibility of voluntary legitimation after the death of the mother, or where marriage or adoption is impossible.
5. The possibility of adoption by the father.

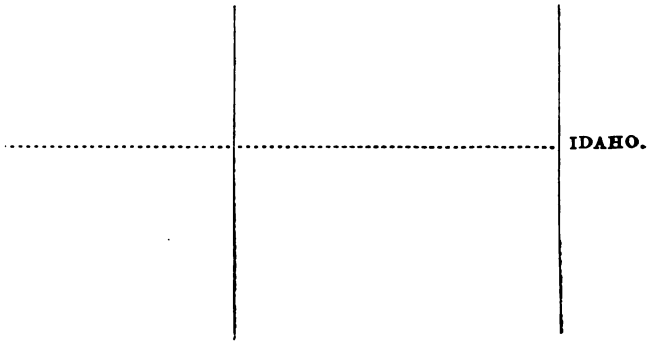
The assumption of the name is also an empty privilege, if unaccompanied by more substantial rights. Its practical effect may be expected to be that the child will relinquish the use of the name for a consideration; and the legislator ought to bear this possible consequence in mind.

It thus appears that the practical consequences of assimilating the status of the illegitimate child to that of a legitimate child are limited. And this is what may be expected of an attempt to alter by legislation social conditions and concepts.

Everything should undoubtedly be done that is within the legislative power, to alleviate the hardship and stigma of illegitimacy, but the limits of practical legislative power should be considered. Where legislation can affect social sentiment it should do so; and even such a matter as terminology should not be neglected. The term bastardy should disappear from our law; filiation or affiliation proceedings would as well express the usual proceedings for the support of illegitimate children, and support orders are at present designated as affiliation or filiation orders in England, New York, New Jersey, and Delaware. And the term "natural child" would be preferable to either illegitimate or bastard.

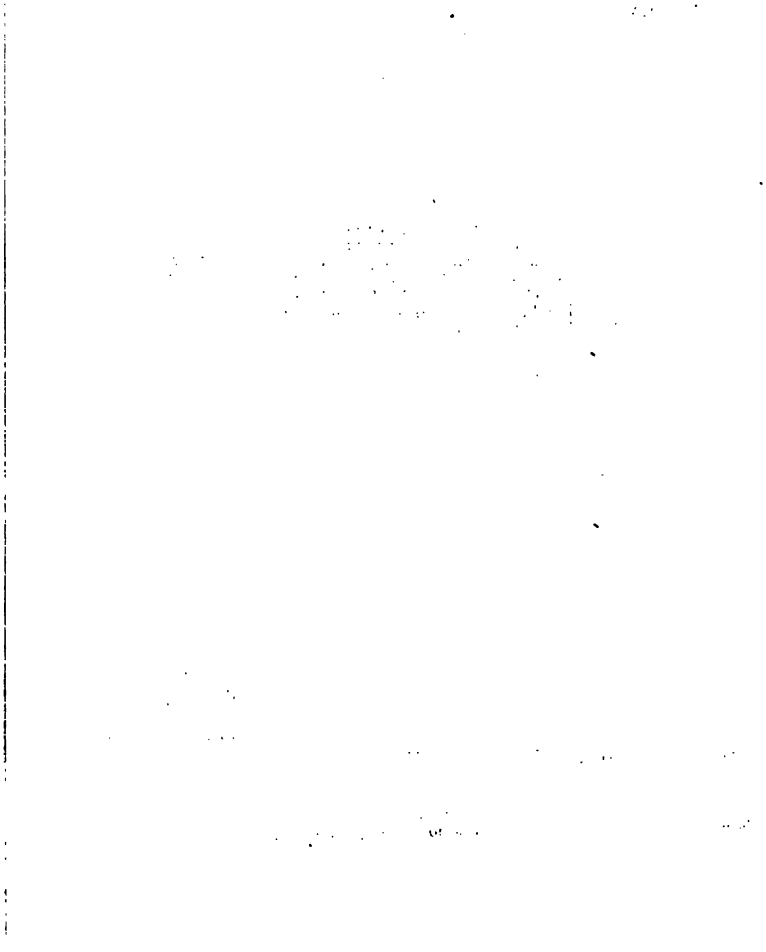
It should also be seriously considered whether it is not possible to keep any reference to illegitimate birth from public records other than those of proceedings in which legitimate or illegitimate paternity is directly involved.

marriage, and issue, **legitimate.**



ge, and issue, legitimate.

ı app officers may compromise ›rde ather, and he is thereupon :his (from all liability. The giving security to indem- 'unty may receive the sum .e man on the compromise. nable to give security and care for her child, she aid the weekly sum out of nt paid by the father for would have been liable on of filiation.	The prosecution is dismissed if child is born dead.	NEW YORK.
ın a .rial		NORTH CAROLINA.



nized upport is regulated for legitimate and illegitimate children alike.

Compromise.	Effect of death of any of parties. Marriage of parents.	State.
y overseer of poor has started rt. dings any compromise with- is consent is not valid against er.	On death of mother after complaint, but before trial, the overseer of poor may continue suit in name of county.	VERMONT.
.....	.....	VIRGINIA.[1]
.....	.....	WASHINGTON.[1]
inc ent ear wi	Liability on judgment ceases on death of child.	WEST VIRGINIA.
oa may be discharged if he set- he h th complainant with consent equ rd of supervisors and gives sed o indemnify county or town. rec ls of city, town, or county compromise, discharging de- it from further liability.	....	WISCONSIN.
d may be discharged if he pays ce mplainant such sum as she her upon and gives bond ap- gnia by justice or judge to indem- istr ounty. Agreement must be wledged before court by both s.	If mother dies, prosecution shall not abate but shall go on in name of child. Death of child is no bar to suit; if child dies after judgment, judge shall make such reduction as he thinks proper.	WYOMING.

ts. Gifts.	In general.
mat children by gifts inter vivos or causa mortis can take only nce nt necessary for sustenance or occupation to maintain them giti imate children are left. If no legitimate children, natural n en may take full amount. If mother has left natural children part, they have no action against heirs for more than enough intenance. If natural father has not left legitimate children, al children take by these gifts one-fourth if he has left legiti- ascendants; one-third if he has left more remote collateral es. Beyond these parts he must dispose of property in fa- legitimate relatives. Natural father and mother can in no ispose of more property in favor of adulterous or incestuous en than enough to sustain them or to procure them an occu- n.	Natural children make no part of children properly so called unless legitimated. Illegitimate child though acknowledged can not claim rights of legitimate children. Every claim of natural child may be contested by those interested.

REFERENCE INDEX TO ILLEGITIMACY LAWS OF THE UNITED STATES

(In Effect January 1, 1919)

REFERENCE INDEX TO ILLEGITIMACY LAWS OF THE UNITED STATES.

[In effect Jan. 1, 1919.]

PREFATORY NOTE.

The following references to illegitimacy laws in force in the United States are arranged in two ways: First, according to a topical index, the States being grouped alphabetically under each topic; and, second, consecutively under each State. In the second grouping each reference is followed by a key word, indicating the subject to which it refers.

The topical index has two main headings: The first, General and Status Legislation; the second, Support Legislation. The subtopics—Adoption, Registration of Births, etc.—are those within the scope of which illegitimacy legislation is usually found.

Although the specific references cover the provisions concerning illegitimacy only, they may be used as a basis for finding also the rest of the law relating to any given subtopic. For a few subjects the list of States is nearly complete; for example, the birth registration laws of 37 States make some mention of illegitimate births and are therefore cited, and in order to determine the total number of States having birth registration laws, the laws of only the remaining 16 jurisdictions would need to be searched.

With a few exceptions, judicial decisions were not examined in connection with compiling these references.

TOPICAL INDEX OF REFERENCES.

GENERAL AND STATUS LEGISLATION.

ADOPTION.—Consent of mother required for the adoption of her illegitimate child.

ARKANSAS.....Kirby and Castle's Digest 1916, secs. 1568, 1583.
CALIFORNIA.....Deering's Civil Code 1915, sec. 224, as amended by Laws 1917, ch. 558.
IDAHO.....Revised Codes 1908, sec. 2703.
ILLINOIS.....Hurd's Revised Statutes 1917, ch. 4, secs. 2, 9a–9c; ch. 23, sec. 183.
IOWA.....Code 1897, sec. 3251.
LOUISIANA.....Merrick's Revised Civil Code 1912, art. 214.
MAINE.....Revised Statutes 1916, ch. 72, sec. 36.
MASSACHUSETTS....Revised Laws 1902, ch. 83, secs. 13, 17–19; ch. 154, sec. 2, as amended by Laws 1904, ch. 302.
MICHIGAN.....Compiled Laws 1915, sec. 14139.
MINNESOTA.....General Statutes 1913, secs. 7153–7155, as amended by Laws 1917, ch. 222.
MONTANA.....Revised Codes 1907, sec. 3764.
NEBRASKA.....Revised Statutes 1913, secs. 1616, 1620.
NEVADA.....Revised Laws 1912, secs. 731, 746, 5828.
NEW HAMPSHIRE...Public Statutes 1901, ch. 181, sec. 2.
NEW MEXICO.....Statutes 1915, secs. 13, 17.
NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 2, Domestic Relations, ch. 14, secs. 111, 113.
NORTH DAKOTA.....Compiled Laws 1913, sec. 4444.
Laws 1911, ch. 177, sec. 17.
OKLAHOMA.....Revised Laws 1910, sec. 4388.
OREGON.....Lord's Oregon Laws 1910, sec. 7099, as amended by Laws 1915, ch. 31.
SOUTH CAROLINA...Code 1912 (Civil), sec. 3798.
SOUTH DAKOTA.....Revised Codes 1903 (Civil), sec. 131.
Laws 1915, ch. 119, sec. 23.
TENNESSEE.....Thompson's Shannon's Code 1918, secs. 4436a–65a15.
UTAH.....Compiled Laws 1917, sec. 13.
VERMONT.....General Laws 1917, sec. 3757.
WEST VIRGINIA.....Laws 1915, ch. 70, sec. 20.
WISCONSIN.....Statutes 1917, sec. 4022.

APPRENTICESHIP.—Consent to, and binding out by mother and others.

ALASKA.....Compiled Laws 1913, sec. 446.
CALIFORNIA.....Deering's Civil Code 1915, sec. 265.

APPRENTICESHIP—Continued.

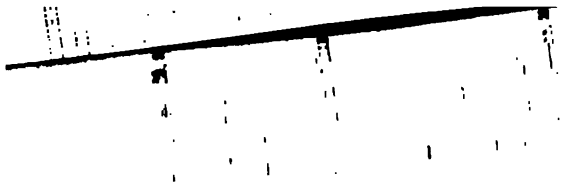
- COLORADO............Revised Statutes 1908, sec. 134.
- DELAWARE..........Revised Code 1915, secs. 3102, 3112.
- ILLINOIS..............Hurd's Revised Statutes 1917, ch. 9, sec. 2.
- MARYLAND..........Annotated Code, vol. 1, 1911, art. 6, sec. 11.
- MASSACHUSETTS....(Apprenticeship Law repealed by Laws 1918, ch. 257, sec. 402.)
- MICHIGAN............Compiled Laws 1915, sec. 11517.
- NORTH CAROLINA...Pell's Revisal 1906, sec. 201.
- OREGON................Lord's Oregon Laws 1910, sec. 7058.
- SOUTH CAROLINA...Code 1912 (Civil), sec. 973.
- TENNESSEE..........Thompson's Shannon's Code 1918, secs. 2706, 4322.
- VERMONT............General Laws 1917, secs. 3732–3733.

BIRTHS AND DEATHS, CONCEALMENT OF, BY MOTHER.

- ALASKA................Compiled Laws 1913, secs. 2005–2006.
- ARKANSAS...........Kirby and Castle's Digest 1916, secs. 1907–1908.
- COLORADO............Revised Statutes 1908, sec. 1641.
- CONNECTICUT.......General Statutes 1918, secs. 6389–6390.
- FLORIDA..............General Statutes 1906, secs. 3218–3219.
- GEORGIA..............Park's Annotated Code, 1914 (Penal), sec. 79.
- HAWAII................Revised Laws 1915, sec. 4244.
- ILLINOIS..............Hurd's Revised Statutes 1917, ch. 38, sec. 44.
- KENTUCKY ....Statutes 1915, sec. 1220.
- MAINE..........Revised Statutes 1916, ch. 126, sec. 8.
- MASSACHUSETTS....Revised Laws 1902, ch. 212, secs. 17–18.
- MICHIGAN..........Compiled Laws 1915, secs. 15468–15469.
- MINNESOTA.......General Statutes 1913, sec. 8687, as amended by Laws 1917, ch. 232.
- MISSOURI..........Revised Statutes 1909, sec. 4471.
- NEVADA..........Revised Laws 1912, sec. 6450.
- NEW HAMPSHIRE..........Public Statutes 1901, ch. 278, sec. 24.
- NEW JERSEY..........Compiled Statutes 1910, vol. 2, p. 1784, sec. 118.
- NEW YORK..........Birdseye's Consolidated Laws 2d ed., 1917, vol. 5, Penal Law, ch. 40, sec. 1302.
- NORTH CAROLINA..........Pell's Revisal 1908, sec. 3623.
- [illegible]..........[illegible] Laws [illegible], sec. 9606.
- [illegible]..........Revised Laws [illegible], secs. [illegible], 2577.
- [illegible]..........[illegible] Laws [illegible], secs. 2050, 2058.
- [illegible]..........[illegible], sec. 3.
- [illegible]..........[illegible]
- [illegible]..........[illegible], secs. 44, 54.
- [illegible]..........[illegible], secs. [illegible].
- [illegible]..........[illegible], sec. 3652.
- [illegible]..........[illegible]

BIRTHS, REGISTRATION OF.—Statement as to whether child is legitimate or illegitimate, and registration on STANDARD CENSUS FORM; miscellaneous.

ALABAMA.....Code 1907, sec. 711, as amended by Laws 1911, p. 116.
ALASKA.....Laws 1913, ch. 35, sec. 2.
ARIZONA.....Revised Statutes 1913, Civil Code, sec. 4418.
COLORADO.....Revised Statutes 1908, sec. 384.
DELAWARE.....Revised Code 1915, sec. 808.
DISTRICT OF COLUMBIA.....34 U. S. Statutes at Large, p. 1010, ch. 2280, sec. 1.
FLORIDA.....Laws 1915, ch. 6892, sec. 14.
GEORGIA.....Park's Annotated Code 1914 (Political), sec. 1676 (bb).
HAWAII.....Revised Laws 1915, sec. 1133, as amended by Laws 1915a.48, sec. 1142.
IDAHO.....Laws 1911, ch. 191, sec. 14.
ILLINOIS.....Hurd's Revised Statutes 1917, ch. 111½, sec. 31.
IOWA.....Laws 1917, ch. 326, sec. 6.
KENTUCKY.....Statutes 1915, sec. 2062a.14.
LOUISIANA.....Laws 1918, No. 257, sec. 14.
MASSACHUSETTS....Revised Laws 1902, ch. 29, sec. 1, as amended by Laws 1910, ch. 322, sec. 25.
Laws 1912, ch. 280, sec. 2; sec. 3 repeals Revised Laws 1902, ch. 29, sec. 3.
MICHIGAN.....Compiled Laws 1915, sec. 5614.
MINNESOTA.....General Statutes 1913, secs. 4651–4652 and 4661–4662 as amended, and 4653a and 4660a–4660b as added, by Laws 1917, ch. 220.
Laws 1917, ch. 212, secs. 8–10.
MISSOURI.....Revised Statutes 1909, sec. 6677.
MONTANA.....Revised Codes 1907, sec. 1769.
NEBRASKA.....Revised Statutes 1913, sec. 2748.
NEVADA.....Revised Laws 1912, sec. 2965.
NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 6 Public Health, ch. 45, sec. 383.
NORTH CAROLINA..Pell's Revisal 1908, sec. 5438b(14), items 6 and 8, Supplement 1913 (1913, ch. 109, sec. 14).
NORTH DAKOTA.....Compiled Laws 1913, sec. 447.
Laws 1915, ch. 183, sec. 8.
OHIO.....General Code 1910, sec. 219 (items 5 and 6), as amended by Laws 1913, p. 194.
OKLAHOMA.....Laws 1917, ch. 168, sec. 14 (6).
OREGON.....Laws 1915, ch. 268, sec. 13, as amended by Laws 1917, ch. 384.
PENNSYLVANIA.....Stewart's Purdon's Digest, Supplement 1905–1915, vol. 6, p. 7303, sec. 20 (1915, No. 402, p. 900, sec. 14).
PORTO RICO.....Revised Statutes and Codes 1911, secs. 231–233, 235.
TENNESSEE.....Thompson's Shannon's Code 1918, sec. 3118a–51.
TEXAS.....Laws 1917, ch. 129, sec. 9.



INHERITANCE.

ALABAMA.....Code 1907, secs. 3760–3761.
ALASKA.....Compiled Laws 1913, secs. 597–598.
ARIZONA.....Revised Statutes 1913, Civil Code, secs. 1103–1104.
ARKANSAS.....Kirby and Castle's Digest 1916, sec. 2852.
CALIFORNIA.....Deering's Civil Code 1915, secs. 1387–1388.
COLORADO.....Revised Statutes 1908, secs. 7046, 7049.
CONNECTICUT.....General Statutes 1918, sec. 5061.
DELAWARE.....Revised Code 1915, secs. 3087, 3087a, as added by Laws 1917, ch. 229, 3269.
DISTRICT OF COLUMBIA.....Code of Law 1911, secs. 387, 957–958.
FLORIDA.....General Statutes 1906, sec. 2292.
GEORGIA.....Park's Annotated Code 1914 (Civil), secs. 3029–3030.
HAWAII.....Revised Laws 1915, secs. 3248–3249, 2995.
IDAHO.....Revised Codes 1908, secs. 5703–5704.
ILLINOIS.....Hurd's Revised Statutes 1917, ch. 39, secs. 2–3.
INDIANA.....Burns' Annotated Statutes 1914, secs. 2998, 3000, 3002.
IOWA.....Code 1897, secs. 3384–3385.
KANSAS.....General Statutes 1915, secs. 3844–3847.
KENTUCKY.....Statutes 1915, secs. 1397–1398.
LOUISIANA.....Marr's Annotated Revised Statutes 1915, sec. 4142. Merrick's Revised Civil Code 1912, arts. 206–212, 917–929, 933, 949, 954, 1483–1488.
MAINE.....Revised Statutes 1916, ch. 65, sec. 13; ch. 80, sec. 3.
MARYLAND.....Annotated Code, vol. 1 (1911), art. 46, secs. 29–30; vol. 2 (1911), art. 93, sec. 134.
MASSACHUSETTS....Revised Laws 1902, ch. 133, secs. 3–5.
MICHIGAN.....Compiled Laws 1915, secs. 11796–11798.
MINNESOTA.....General Statutes 1913, secs. 7240–7241.
MISSISSIPPI.....Code 1906, sec. 1655.
MISSOURI.....Revised Statutes 1909, sec. 340.
MONTANA.....Revised Codes 1907, secs. 4821–4822.
NEBRASKA.....Revised Statutes 1913, secs. 1273–1274.
NEVADA.....Revised Laws 1912, secs. 6117–6118.
NEW HAMPSHIRE...Public Statutes 1901, ch. 196, sec. 4 (Supplement 1913, p. 462), sec. 5; ch. 174, sec. 18.
NEW JERSEY.....Compiled Statutes 1910, vol. 2, p. 1923, sec. 13, as amended by Laws 1917, chs. 139 and 246; vol. 3, p. 3874, sec. 169, as amended by Laws 1918, ch. 63.
NEW MEXICO.....Statutes 1915, secs. 1850, as amended by Laws 1915, ch. 69 (see also Statutes 1915, Appendix, p. 106); 1851; 1856.
NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 2, Decedent Estate, ch. 13, secs. 89, 98.
NORTH CAROLINA...Pell's Revisal 1908, secs. 136–137, 264; sec. 1556, rule 9, Supplement 1913 (as amended by Laws 1913, ch. 71); rules 10 and 13.

INHERITANCE—Continued.

NORTH DAKOTA.....Compiled Laws 1913, secs. 5745-5746.
Laws 1917, ch. 70, sec. 1.

OHIO.....General Code 1910, secs. 8590–8591.

OKLAHOMA.....Revised Laws 1910, secs. 8420–8421.

OREGON.....Lord's Oregon Laws 1910, secs. 7351–7352.
Laws 1917, ch. 48, sec. 14.

PENNSYLVANIA.....Stewart's Purdon's Digest 1700–1903, vol. 2, p. 2004, secs. 52 (in part repealed by Laws 1917, No. 192, pp. 444–445), 55.
Laws 1917, No. 192, secs. 14–15, 27–28.

PORTO RICO.....Revised Statutes and Codes 1911, secs. 3265, 3809, 3886–3891, 4001, 4005–4009.

RHODE ISLAND.....General Laws 1909, ch. 316, sec. 7.

SOUTH CAROLINA...Code 1912 (Civil), secs. 3454, 3562, 3575, 3798.

SOUTH DAKOTA.....Revised Codes 1903 (Civil), secs. 1096–1097.

TENNESSEE.....Thompson's Shannon's Code 1918, secs. 4166–4167 (sec. 4168 was declared unconstitutional in 130 Tenn. 494), 4169.

TEXAS.....Revised Statutes 1911 (Civil), arts. 2472–2473.

UTAH.....Compiled Laws 1917, secs. 6413–6414, 6428–6430.

VERMONT.....General Laws 1917, secs. 3418–3419.

VIRGINIA.....Code 1904, secs. 2552–2554.

WASHINGTON.....Remington's Codes and Statutes 1915, secs. 1345–1346.

WEST VIRGINIA.....Barnes' Code 1916, ch. 78, secs. 5–6.

WISCONSIN.....Statutes 1917, secs. 2273–2274.

WYOMING.....Compiled Statutes 1910, secs. 5731–5733.

JUVENILE COURTS.—Petition to state name of mother of child of illegitimate birth. Notice to mother. (For consent to adoption under juvenile court laws, see "ADOPTION.")

ARKANSAS.....Kirby and Castle's Digest 1916, sec. 1568.

ILLINOIS.....Hurd's Revised Statutes 1917, ch. 23, secs. 172–173.

KENTUCKY.....Statutes 1915, sec. 331e.4.

MICHIGAN.....Compiled Laws 1915, sec. 2017 (juvenile court law provides relief for unmarried mother of dependents).

MINNESOTA.....Laws 1917, ch. 397, sec. 1 (child of illegitimate birth is classed as a "dependent" in the juvenile court law).

MONTANA.....Laws 1911, ch. 122, sec. 5.

NEVADA.....Revised Laws 1912, sec. 731.

NORTH DAKOTA.....Laws 1911, ch. 177, secs. 5–6.

SOUTH DAKOTA.....Laws 1915, ch. 119, secs. 5–6.

WEST VIRGINIA.....Laws 1915, ch. 70, secs. 4; 5, as amended by Laws 1917, ch. 63.

LEGITIMACY, PRESUMPTION OF, ETC.

CALIFORNIA.....Deering's Civil Code, secs. 193–195.
Deering's Code of Civil Procedure, secs. 1962 (5), 1963 (31).

LEGITIMACY, PRESUMPTION OF, ETC.—Continued.

GEORGIA.....Park's Annotated Code 1914 (Civil), sec. 3012.
LOUISIANA.....Merrick's Revised Civil Code 1912, arts. 184–197; 208–212.
MONTANA.....Revised Codes 1907, secs. 3738–3740.
NORTH DAKOTA.....Compiled Laws 1913, secs. 4420–4422, 7935 (5), 7936 (31).
OKLAHOMA.....Revised Laws 1910, secs. 4364–4366.
OREGON.....Lord's Oregon Laws 1910, secs. 798 (6), 799 (32).
PORTO RICO.....Revised Statutes and Codes 1911, secs. 3250–3256.
SOUTH DAKOTA.....Revised Codes 1903 (Civil), secs. 107–109.

LEGITIMATION, METHODS OF. By subsequent marriage of parents, by judicial proceeding, by writing, and by open and notorious acknowledgment or by adoption of child by father:

ALABAMA.....Code 1907, secs. 5199–5201.
ALASKA.....Compiled Laws 1913, secs. 438, 597–598.
ARIZONA.....Revised Statutes 1913, Civil Code, secs. 1103, 1198, 3840.
ARKANSAS.....Kirby and Castle's Digest 1916, sec. 2853.
CALIFORNIA.....Deering's Civil Code 1915, secs. 215, 230, 1387.
COLORADO.....Revised Statutes 1908, sec. 7046.
CONNECTICUT.....General Statutes 1918, sec. 5061.
DELAWARE.....(No provisions.)
DISTRICT OF COLUMBIA.....Code of Law 1911, sec. 957.
FLORIDA.....General Statutes 1906, sec. 2602.
GEORGIA.....Park's Annotated Code 1914 (Civil), secs. 3012–3013.
HAWAII.....Revised Laws 1915, sec. 2996.
IDAHO.....Revised Codes 1908, secs. 2699, 2709, 5703.
ILLINOIS.....Hurd's Revised Statutes 1917, ch. 17, sec. 15; ch. 39, sec. 3.
INDIANA.....Burns' Annotated Statutes 1914, secs. 3000–3001.
IOWA.....Code 1897, secs. 3150, 3385.
KANSAS.....General Statutes 1915, sec. 3845.
KENTUCKY.....Statutes 1915, sec. 1398.
LOUISIANA.....Marr's Annotated Revised Statutes 1915, secs. 4142–4143.
Merrick's Revised Civil Code 1912, arts. 198–201, 203–206.
MAINE.....Revised Statutes 1916, ch. 80, sec. 3.
MARYLAND.....Annotated Code, vol. 1 (1911), art. 46, sec. 29.
MASSACHUSETTS....Revised Laws 1902, ch. 133, sec. 5.
MICHIGAN.....Compiled Laws 1915, secs. 11387–11391. 11793.
MINNESOTA.....General Statutes 1913, secs. 7105, 7240.
MISSISSIPPI.....Code 1906, sec. 542, as amended by Laws 1910, ch. 135; sec. 1655.
MISSOURI.....Revised Statutes 1909, secs. 341, 344.

LEGITIMATION, METHODS OF—Continued.

MONTANA.....Revised Codes 1907, secs. 3760, 3770, 4821.
NEBRASKA.....Revised Statutes 1913, sec. 1273.
NEVADA.....Revised Laws 1912, secs. 2351, 5833, 6117.
NEW HAMPSHIRE...Public Statutes 1901, ch. 174, sec. 18.
NEW JERSEY.....Compiled Statutes 1910, vol. 3, p. 3874, sec. 169, as amended by Laws 1918, ch. 63.
Laws 1914, ch. 5, sec. 1.
Laws 1915, ch. 173, secs. 1–3.
NEW MEXICO.....Statutes 1915, sec. 1850, as amended by Laws 1915, ch. 69 (see also Statutes 1915, Appendix, p. 106); 1852.
NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 2, Domestic Relations, ch. 14, sec. 24.
NORTH CAROLINA...Pell's Revisal 1908, secs. 263–264.
Laws 1917, ch. 219, secs. 1–2.
NORTH DAKOTA.....Compiled Laws 1913, secs. 4421, 4450, 5745.
Laws 1917, ch. 70, secs. 1–3.
OHIO.....General Code 1910, sec. 8591.
OKLAHOMA.....Revised Laws 1910, secs. 4365; 4399, as amended by Laws 1910–1911, p. 169, ch. 73; sec. 8420.
OREGON.....Lord's Oregon Laws 1910, secs. 7026, 7351–7352.
Laws 1917, ch. 48, sec. 14.
PENNSYLVANIA.....Stewart's Purdon's Digest 1700–1903, vol. 3, p. 2445, sec. 31 (in part repealed by Laws 1917, No. 192, pp. 443–444).
Laws, 1917, No. 192, sec. 15(d).
PORTO RICO.....Revised Statutes and Codes 1911, secs. 235, 405, 3250, 3257–3265, 3389, 3809.
RHODE ISLAND.....(No provisions.)
SOUTH CAROLINA...(No specific provisions, but consult Civil Code 1912, sec. 3798.)
SOUTH DAKOTA.....Revised Codes 1903 (Civil), secs. 108, 138, 1096.
TENNESSEE.....Thompson's Shannon's Code 1918, secs. 5402, 5406–5408, 5412–5413, 6027 (10), 6069.
TEXAS.....Revised Statutes 1911 (Civil), art. 2472.
UTAH.....Compiled Laws 1917, secs. 19, 393, 6413.
VERMONT.....General Laws 1917, sec. 3419.
VIRGINIA.....Code 1904, sec. 2553.
WASHINGTON.....Remington's Codes and Statutes 1915, secs. 1345, 7155.
WEST VIRGINIA.....Barnes' Code 1916, ch. 78, sec. 6.
WISCONSIN.....Statutes 1917, secs. 2274, 2339n–25.
WYOMING.....Compiled Statutes 1910, sec. 5731.

MARRIAGE AND DIVORCE.—Effect of void and annulled marriages and of divorce on legitimacy of children, etc.:

ALABAMA.....Code 1907, secs. 3807, 4880.
ALASKA.....Compiled Laws 1913, sec. 597.
Laws 1917, ch. 56, secs. 12–14.

MARRIAGE AND DIVORCE—Continued.

ARIZONA..............Revised Statutes 1913, Civil Code, secs. 1103; 3864, as amended by Laws 1917, ch. 54.

ARKANSAS...........Kirby and Castle's Digest 1916, secs. 2854, 2887, 6085, 6095–6096, 6098, 6105.

CALIFORNIA.........Deering's Civil Code 1915, secs. 84, 144–145, 194, 1387.

COLORADO...........Revised Statutes 1908, sec. 2112 (apparently superseded by Laws 1915, ch. 74, and Laws, 1917, ch. 65).

CONNECTICUT.......General Statutes 1918, secs. 5289–5293.

DELAWARE..........Revised Code 1915, secs. 3029–3030.

DISTRICT OF COLUMBIA............Code of Law 1911, secs. 972–974.

FLORIDA ....General Statutes 1906, secs. 1929, 2579, 2586.

GEORGIA.............Park's Annotated Code 1914 (Civil), secs. 2180, 2935, 2963, 3012.
Park's Annotated Code 1914 (Penal), sec. 369.

HAWAII...............Revised Laws 1915, secs. 2922–2923, 2940–2941.

IDAHO.................Revised Codes 1908, secs. 2642, 2669, 5703.

ILLINOIS..............Hurd's Revised Statutes 1917, ch. 40, sec. 3; ch. 89, secs. 4, 18.

INDIANA..............Burns' Annotated Statutes 1914, secs. 1060–1064.

IOWA...................Code 1897, secs. 3175, 3185–3186.

KANSAS................General Statutes 1915, sec. 7585.

KENTUCKY...........Statutes 1915, secs. 168, 1399a–1399b, 2098–2099.

LOUISIANA...........Marr's Annotated Revised Statutes 1915, secs. 4453–4454.
Merrick's Revised Civil Code 1912, arts. 161–163, 198, 204.

MAINE.................Revised Statutes 1916, ch. 65, secs. 13, 16–17.

MARYLAND..........No provisions.

MASSACHUSETTS...Revised Laws 1902, ch. 151, secs. 4, 11–13 (sec. 14 repealed), [illegible], ch. [illegible], sec. [illegible]
Laws 1902, ch. [illegible], secs. [illegible]

MICHIGAN..........Compiled Laws 1915, secs. [illegible], [illegible]–[illegible], [illegible]–[illegible].

MINNESOTA.......General Statutes 1913, sec. 7105.

MISSISSIPPI......Code 1906, sec. [illegible].

MISSOURI.........Revised Statutes 1909, secs. [illegible], [illegible], [illegible].

MONTANA.........Revised Codes 1907, secs. [illegible], [illegible]–[illegible], [illegible].

NEBRASKA.........Revised Statutes 1913, secs. [illegible]–[illegible], [illegible].

NEVADA...........Revised Laws 1912, secs. [illegible], [illegible].

NEW HAMPSHIRE..Public Statutes 1901, ch. [illegible], sec. [illegible]; ch. [illegible], sec. [illegible].

NEW JERSEY......[illegible]

NEW MEXICO.....[illegible]

NEW YORK.......[illegible] Code of Civil Procedure [illegible], secs. [illegible], [illegible], [illegible].

MARRIAGE AND DIVORCE—Continued.

NORTH CAROLINA..Pell's Revisal 1908, secs. 1556, rule 13, 1569, 2083. Supplement 1913, p. 2087 (see also Laws of 1911, ch. 215 and 1913, ch. 123), as amended by Laws 1917, ch. 135.

NORTH DAKOTA.....Compiled Laws 1913, secs. 4394–4395, 4370, 5745.

OHIO.....General Code 1910, secs. 8591, 11987.

OKLAHOMA.....Revised Laws 1910, secs. 4974, 8420.

OREGON.....Lord's Oregon Laws 1910, sec. 7026.

PENNSYLVANIA.....Stewart's Purdon's Digest 1700–1903, vol. 1, p. 1247, sec. 32; vol. 3, p. 2446, secs. 32–33.

PORTO RICO.....(No specific provisions.)

RHODE ISLAND.....General Laws 1909, ch. 243, secs. 2–3.

SOUTH CAROLINA...Code 1912 (Civil), sec. 3756 (Slave marriages).

SOUTH DAKOTA.....Revised Codes 1903 (Civil), secs. 63, 81–82, 1096.

TENNESSEE.....Thompson's Shannon's Code 1918, secs. 4179, 4198–4200, 4229.

TEXAS.....Revised Statutes 1911 (Civil), arts. 2472, 4614–4616, 4636.

UTAH.....Compiled Laws 1917, secs. 2968, 6413.

VERMONT.....General Laws 1917, secs. 3546, 3553, 3597.

VIRGINIA.....Code 1904, secs. 2227, 2554.

WASHINGTON.....(No provisions.)

WEST VIRGINIA.....Barnes' Code 1916, ch. 63, sec. 8; ch. 78, sec. 7.

WISCONSIN.....Statutes 1917, secs. 2339n–24 to 2339n–25.

WYOMING.....Compiled Statutes 1910, secs. 3941–3944.

MATERNITY HOSPITALS, LYING-IN HOMES, BOARDING HOMES FOR INFANTS.—Provisions for admission of illegitimate children and for records, etc., regarding same. (References are made only to those laws which specify illegitimacy. Approximately 18 to 20 States have laws on the subject.)

INDIANA.....Burns' Annotated Statutes 1914, secs. 3678a–3678n; (secs. 3678c, 3678h–3678k apply specifically).

MAINE.....Revised Statutes 1916, ch. 64, sec. 58, as amended by Laws 1917, ch. 176.
Laws 1917, ch. 149, secs. 1–4.

MINNESOTA.....Laws 1917, ch. 212, secs. 8–10.

NORTH DAKOTA.....Laws 1915, ch. 183, secs. 3, 8, 10–11.

WISCONSIN.....Statutes 1917, secs. 1542a–1542g.

NAME.—Provisions as to whose name child shall bear (Consult also "ILLEGITIMACY PROCEEDINGS").

ALABAMA.....Code 1907, sec. 5201.

HAWAII.....Revised Laws 1915, secs. 3070–3071.

PENNSYLVANIA.....Stewart's Purdon's Digest 1700–1903, vol. 2, p. 2004, secs. 52 (in part repealed by Laws 1917, No. 192, pp. 443–444), 55; vol. 3, p. 3197, sec. 4.

PORTO RICO.....Revised Statutes and Codes 1911, sec. 3256.

TENNESSEE.....Thompson's Shannon's Code 1918, sec. 5412.

WISCONSIN.....Statutes 1917, sec. 1022–30 (item 21).

RESIDENCE, SETTLEMENT, DOMICILE.—Illegitimate child to have residence of mother; settlement for obtaining benefits of poor laws.

GEORGIA.....Park's Annotated Code 1914 (Civil), sec. 2184.
INDIANA.....Burns' Annotated Statutes 1914, sec. 9745.
IOWA.....Code 1897, sec. 2224(5).
KANSAS.....General Statutes 1915, sec. 6821 (item 3).
MAINE.....Revised Statutes 1916, ch. 29, sec. 1.
MASSACHUSETTS....Laws 1911, ch. 669, sec. 1 (repeals Revised Laws 1902, ch. 80).
NEW HAMPSHIRE...Public Statutes 1901, ch. 83, sec. 1 (item 3).
NEW JERSEY.....Compiled Statutes 1910, vol. 3, p. 4012, sec. 4, superseded by Laws 1911, ch. 196, sec. 9, as amended by Laws 1912, ch. 14.
NORTH CAROLINA..Pell's Revisal 1908, sec. 1333 (item 4).
NORTH DAKOTA.....Compiled Laws 1913, sec. 2501 (item 3).
OKLAHOMA.....Revised Laws 1910, sec. 4534.
PENNSYLVANIA.....Stewart's Purdon's Digest 1700-1903, vol. 3, p. 3566, sec. 60.
RHODE ISLAND.....General Laws 1909, ch. 92, sec. 1 (item 3).
SOUTH CAROLINA...Code 1912 (Civil), sec. 1530 (item 3).
SOUTH DAKOTA.....Revised Codes 1903 (Political), sec. 2764 (item 3).
UTAH.....Compiled Laws 1917, sec. 1400x44.
WISCONSIN.....Statutes 1917, sec. 1500 (item 3).

WORKMEN'S COMPENSATION LAWS.—Those specifically applied to illegitimate or to acknowledged illegitimate children in defining children entitled to the benefits of the law.

HAWAII.....Laws 1915, act 221, sec. 10, as amended by Laws 1917, act 227.
IDAHO.....Laws 1917, ch. 81, sec. 14.
INDIANA.....Laws 1915, ch. 106, sec. 38.
KENTUCKY.....Laws 1916, ch. 33, sec. 14.
LOUISIANA.....Marr's Annotated Revised Statutes 1915, sec. 3967, as amended by Laws 1918, No. 38.
MONTANA.....Laws 1915, ch. 96, sec. 6p.
NEVADA.....Laws 1913, ch. 111, sec. 26, as amended by Laws 1917, ch. 233.
NEW JERSEY.....Laws 1911, ch. 95, sec. 12, as amended by Laws 1914, ch. 244.
NEW MEXICO.....Laws 1917, ch. 83, sec. 12 (j and k).
NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 8, Workmen's Compensation, ch. 67, sec. 3.
OREGON.....Laws 1913, ch. 112, sec. 14, as amended by Laws 1917, ch. 288.
PORTO RICO.....Laws 1918, No. 10, sec. 3.
VERMONT.....General Laws 1917, sec. 5759.
VIRGINIA.....Laws 1918, ch. 400, sec. 40.
WASHINGTON.....Remington's Codes and Statutes 1915, sec. 6604–3, as amended by Laws 1917, ch. 120, sec. 1.

MISCELLANEOUS.

MISSISSIPPI.....Code 1906, sec. 721, as amended by Laws 1914, ch. 214 (Death by wrongful act—illegitimate child may recover for death of mother).

SOUTH CAROLINA...Code 1912 (Civil), secs. 3454, 3562, 3575 (Death by wrongful act—illegitimate child may recover for death of mother).

SUPPORT LEGISLATION.

ILLEGITIMACY PROCEEDINGS.—Legislation for the support of the illegitimate child; proceedings against the father.

ALABAMA.....Code 1907, secs. 6364–6388.

ALASKA.....(No provisions.)

ARIZONA.....Revised Statutes 1913, Penal Code, secs. 369–381.

ARKANSAS.....Kirby and Castle's Digest 1916, secs. 587–600, sec. 1493 (Jurisdiction); Constitution art. 7, sec. 28 (Jurisdiction).

CALIFORNIA.....Deering's Civil Code 1915, sec. 196a (Support of illegitimate child); secs. 138–140 (Provisions for enforcement of section 196a).

COLORADO.....Revised Statutes 1908, secs. 353–358.

CONNECTICUT.....General Statutes 1918, secs. 6006–6015, 6160.

DELAWARE.....Revised Code 1915, secs. 3072–3076; 3077, as amended by Laws 1917, ch. 228; 3078–3088 (Secs. 546, 3804, 3992, 4001–4003, 4237, 4466 constitute certain jurisdictional and other provisions).

DISTRICT OF COLUMBIA.....37 U. S. Statutes at Large, p. 134, ch. 171, secs. 1–8.

FLORIDA.....General Statutes 1906, secs. 2598–2602.

GEORGIA.....Park's Annotated Code 1914 (Penal), secs. 682, 1330–1336.

HAWAII.....Revised Laws 1915, secs. 2272–2273, 2478, 3005–3015.

IDAHO.....(No provisions.)

ILLINOIS.....Hurd's Revised Statutes 1917, ch. 17, secs. 1–17.

INDIANA.....Burns' Annotated Statutes 1914, secs. 1013–1034, 1063, 1382 (10), 8377–8380.

IOWA.....Code 1897, secs. 5629–5636.

KANSAS.....General Statutes 1915, secs. 5117–5138.

KENTUCKY.....Statutes 1915, secs. 166–181.

LOUISIANA.....Merrick's Revised Civil Code 1912, arts. 210, 239–245. (See also "CARE AND SUPPORT." Louisiana has no law conforming to provisions in other States.)

MAINE.....Revised Statutes 1916, ch. 85, sec. 59. Ch. 102, secs. 1–6; 7, as amended by Laws 1917, ch. 84; 8–9; 10, as amended by Laws 1917, ch. 158, sec. 11.

MARYLAND.....Annotated Code, vol. 3 (1914), art. 12, secs. 1–12.

MASSACHUSETTS....Revised Laws 1902, ch. 84, sec. 4, as amended by Laws 1909, ch. 208.
Laws 1913, ch. 563, secs. 1–7; 8, as added by Laws 1918, ch. 199.

MICHIGAN.....Compiled Laws 1915, secs. 7753–7763, 7794, 15700.

ILLEGITIMACY PROCEEDINGS—Continued.

MINNESOTA.....General Statutes 1913, secs. 3214–3224, as amended by Laws 1917, ch. 210, sec. 1; 3225a–3225e, as added by Laws 1917, ch. 210, sec. 1 (sec. 2: Constitutionality); 8703a, as added by Laws 1917, ch. 211.
Laws 1917, ch. 194, secs. 2–5; ch. 212, sec. 10.

MISSISSIPPI.....Code 1906, secs. 268–283.

MISSOURI.....(No provisions.)

MONTANA.....Revised Codes 1907, secs. 9576–9583.

NEBRASKA.....Revised Statutes 1913, secs. 357–364.

NEVADA.....Revised Laws 1912, secs. 765–766.

NEW HAMPSHIRE...Public Statutes 1901, ch. 87, secs. 1; 2, Supplement 1913, p. 161; 3–12; ch. 204, sec. 4.

NEW JERSEY.....Compiled Statutes 1910, vol. 1, p. 184, secs. 1–34; vol. 3, p. 3981, sec. 35; p. 4004, sec. 133.
Laws 1912, ch. 103, secs. 1–3.

NEW MEXICO.....(No provisions.)

NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 4, Judiciary Law, ch. 30, sec. 4; vol. 5, Penal Law, ch. 40, sec. 1843; vol. 6, Poor Law, ch. 42, secs. 60–75; vol. 7, Second Class Cities, ch. 53, sec. 185.
Bender's Code of Criminal Procedure 1918, secs. 838–886.

NORTH CAROLINA...Pell's Revisal 1908, secs. 252–264, 1915–1919.

NORTH DAKOTA.....Compiled Laws 1913, secs. 10483–10500.
Laws 1917, ch. 70, secs. 1–3.

OHIO.....General Code 1910, secs. 12110–12135.

OKLAHOMA.....Revised Laws 1910, secs. 1816, as amended by Laws 1917, ch. 119 (Jurisdiction of County Court); 3885, 4401–4406; 4407, as amended by Laws 1915; ch. 91, 4408–4411.

OREGON.....Laws 1917, ch. 48, secs. 1–14.

PENNSYLVANIA.....Stewart's Purdon's Digest 1700–1903, vol. 1, p. 955, secs. 247–248; Supplement 1905–1915, vol. 5, p. 5852, secs. 52–57.
Laws 1917, No. 145, secs. 1–3.

PORTO RICO.....Revised Statutes and Codes 1911, secs. 3263–3267. (No provisions conforming to laws in the States.)

RHODE ISLAND.....General Laws 1909, ch. 95, secs. 1–3; 4–5, as amended by Laws 1915, ch. 1215; 6–8; 9, as amended by Laws 1915, ch. 1215; 10–11; 12–14, as amended by Laws 1915, ch. 1215, 15–18.

SOUTH CAROLINA...Code 1912 (Criminal), secs. 691–695; (Civil), sec. 974.

SOUTH DAKOTA.....Revised Codes 1903 (Civil), secs. 107–109. (See also "LEGITIMACY, PRESUMPTION OF").
Revised Codes 1903 (Civil Procedure), secs. 807–816.

TENNESSEE.....Thompson's Shannon's Code 1918, secs. 2707, 6040, 6931 (1), 7332–7353.

TEXAS.....(No provisions.)

UTAH.....Compiled Laws 1917, secs. 380–395.

ILLEGITIMACY PROCEEDINGS—Continued.

VERMONT.....General Laws 1917, secs. 2343–2351, 2417–2419, 3608–3632. (For jurisdiction of city and municipal courts, see Laws of 1908, No. 62.)

VIRGINIA.....(No provisions.)

WASHINGTON.....(No provisions.)

WEST VIRGINIA.....Barnes' Code 1916, ch. 80, secs. 1–6.

WISCONSIN.....Statutes 1917, secs. 750.2, 1530–1533, 1533a–1533b, 1533m, 1534–1542.

WYOMING.....Compiled Statutes 1910, secs. 6371–6394.

CARE AND SUPPORT.—Legal liability of parent to support child; support by public authorities, etc.

CALIFORNIA.....Deering's Civil Code 1915, sec. 196 (apparently applicable to mother who, under sec. 200, has custody of the child), 196a. (See also "ILLEGITIMACY PROCEEDINGS.")
Deering's Political Code, sec. 2290: Care and Support of Foundlings.

CONNECTICUT.....General Statutes 1918, sec. 1795.

DELAWARE.....Revised Code 1915, sec. 3034.

GEORGIA.....Park's Annotated Code 1914 (Civil), sec. 3027; (Penal), sec. 379.

HAWAII.....Revised Laws 1915, sec. 2995.

IOWA.....Code 1897, secs. 2216, 2250.

LOUISIANA.....Merrick's Revised Civil Code 1912, arts. 239–245.

MINNESOTA.....Laws 1917, ch. 194, secs. 2–5; ch. 397, sec. 1. (Juvenile court laws: Illegitimate classed as "dependent.")

MONTANA.....Revised Codes 1907, sec. 3741.

NORTH DAKOTA.....Laws 1917, ch. 70, sec. 1.

OKLAHOMA.....Revised Laws 1910, sec. 4367.

PORTO RICO.....Revised Statutes and Codes 1911, secs. 3266–3267, 3283–3290.

MOTHERS' PENSIONS.—By the end of 1918, 36 States had adopted mothers' pension laws. One of these States—Michigan—specifically makes provision for aid to "unmarried" mothers. In Massachusetts, New Hampshire, North Dakota, and Utah the laws apply to "all mothers," but the conditions imposed as to character might exclude the mother of a child of illegitimate birth. Under the language of the laws of the other States listed it would seem possible to extend aid to the mother of a child of illegitimate birth also; restrictions as to character are imposed in these States also. In 26 States the mothers of children of illegitimate birth are not included.

COLORADO.....Revised Statutes 1908, sec. 558, as amended by Laws 1913, p. 694.

MASSACHUSETTS....Laws 1913, ch. 763, secs. 1–4.

MICHIGAN.....Compiled Laws 1915, sec. 2017.

MISSOURI.....Laws 1917, p. 151, secs. 1–10.

MONTANA.....Laws 1917, ch. 83, secs. 1–7 (apparently supersedes Laws 1915, ch. 86).

MOTHERS' PENSIONS—Continued.

NEBRASKA.....Revised Statutes 1913, sec. 1250.
Laws 1915, ch. 187, secs. 1–4.

NEVADA.....Revised Laws 1912, sec. 739, as amended by Laws 1913, ch. 133.
Laws 1915, ch. 131, secs. 1; 2, as amended by Laws 1917, ch. 11, secs. 3–8.

NEW HAMPSHIRE....Laws 1915, ch. 132, secs. 1–10.

NORTH DAKOTA.....Laws 1915, ch. 185, secs. 1–8.

UTAH.....Compiled Laws 1917, secs. 3960–3968.

ABANDONMENT, DESERTION, NONSUPPORT.—First hereunder are given the laws specifically applying to illegitimate children; and second, laws specifying "any parent," "every person," "his or her child," etc., since this terminology would appear to apply both to the putative father and the mother of an illegitimate child; but certain judicial authorities have decided that the putative father is not included. Only the more advanced type of family desertion and nonsupport legislation has been included.

LAWS SPECIFICALLY APPLYING TO ILLEGITIMATE CHILDREN.

CALIFORNIA.....Deering's Penal Code 1915, secs. 270, as amended by Laws 1917, ch. 168; 270b, 270d, 271, 271a, 273h.

COLORADO.....Laws 1911, ch. 179, secs. 1–10.

DELAWARE.....Revised Code 1915, secs. 3034–3046, 3088.

ILLINOIS.....Hurd's Revised Statutes 1917, ch. 58, secs. 1–3.

MASSACHUSETTS....Laws 1911, ch. 456, secs. 1–4; 5–6, as amended by Laws 1918, ch. 257, secs. 453–454; 7; 8, as amended by Laws 1912, ch. 310. (Made applicable by Laws 1913, ch. 563, sec. 7.)
Laws 1917, ch. 163, as amended by Laws 1918, ch. 257, sec. 455.

MINNESOTA.....General Statutes 1913, secs. 8666–8668 as amended, and 8668A as added, by Laws 1917, ch. 213. (Made applicable by sec. 3218, as amended by Laws 1917, ch. 210. (See "ILLEGITIMACY PROCEEDINGS.")

NEBRASKA.....Revised Statutes 1913, secs. 8614–8616.

NEVADA.....Revised Laws 1912, sec. 766.

NEW HAMPSHIRE....Public Statutes 1901, Supplement 1913, p. 518 (1913, ch. 57, sec. 1).

OHIO.....General Code 1910, secs. 13008–13017; 13018, as amended by Laws 1913, p. 913; 13019, as amended by Laws 1911, p. 115, 13020–13021.

PENNSYLVANIA.....Laws 1917, No. 145, secs. 1–3; No. 290, secs. 1–6.

WEST VIRGINIA.....Laws 1917, ch. 51, secs. 1–9.

WISCONSIN.....Statutes 1917, secs. 4587c.1 to 4587c.6, 4587d.

LAWS APPARENTLY APPLYING TO ILLEGITIMATE CHILDREN.

ALABAMA.....Laws 1915, p. 560, secs. 1–11.

ALASKA.....Laws 1915, ch. 12, secs. 1–3.

ARIZONA.....Revised Statutes 1913, Penal Code secs. 249, 251.

ARKANSAS.....Kirby and Castle's Digest 1916, secs. 1589–1590 (1650–1651 not applicable).

ABANDONMENT, DESERTION, NONSUPPORT—Continued.

CONNECTICUT.....General Statutes 1918, sec. 6416.

DISTRICT OF COLUMBIA.....34 U. S. Statutes at Large, p. 86, ch. 1131, secs. 1–3 (see also Code 1911, p. 417). (The term "any person * * * applies only to parents of lawful children, and not to parents of bastards."—Moss *v.* United States, 29 D. C. App. 188.)

FLORIDA.....Laws 1913, ch. 6483, sec. 1.

HAWAII.....Revised Laws 1915, sec. 2970, as amended by Laws 1915, act 100; sec. 2971.

IDAHO.....Revised Codes 1908, secs. 6781–6782, as amended by Laws 1915, ch. 83.

ILLINOIS.....Hurd's Revised Statutes 1917, ch. 68, secs. 27–37 (secs. 24–26 are superseded by a later act).

INDIANA.....Burns' Annotated Statutes 1914, secs. 2635; 2635a, as amended by Laws 1915, ch. 179; 2635b.

KANSAS.....General Statutes 1915, secs. 3410–3416.

KENTUCKY.....Laws 1916, ch. 6, secs. 1–3.

MAINE.....Revised Statutes 1916, ch. 120, secs. 38–41.

MICHIGAN.....Compiled Laws 1915, secs. 7789–7793.

MISSOURI.....Revised Statutes 1909, sec. 4495, as amended by Laws 1911, p. 193.

MONTANA.....Revised Codes 1907, sec. 8346, as amended by Laws 1917, ch. 78.
Laws 1917, ch. 77.

NEVADA.....Laws 1913, ch. 272, secs. 1–2.

NEW JERSEY.....Laws 1916, ch. 45, sec. 1.
Laws 1917, ch. 61, secs. 1–5.

NEW YORK.....Birdseye Consolidated Laws (2d ed.) 1917, vol. 5, Penal Law, ch. 40, secs. 480–481. (The term "parent" does not include the putative father of an illegitimate child.—People *v.* Fitzgerald (1915), 167 App. Div. 85, 152 N. Y. Supp. 641.)

NORTH DAKOTA.....Compiled Laws 1913, secs. 9595–9600.

OKLAHOMA.....Laws 1915, ch. 149, secs. 1–2.

OREGON.....Laws 1913, ch. 244, secs. 1, as amended by Laws 1917, ch. 136; 2–8.

TENNESSEE.....Thompson's Shannon's Code 1918, sec. 4249a–11 et seq. (The phrase "any person legally chargeable" does not appear applicable.)

TEXAS.....Laws 1913, ch. 101, secs. 1–7.

UTAH.....Compiled Laws 1917, secs. 8112–8115.

VERMONT.....General Laws 1917, secs. 3536–3543.

VIRGINIA.....Code 1904, Supplement 1916, p. 1030 (Laws 1915, ch. 114).
Laws 1918, ch. 416, secs. 1–11.

WASHINGTON.....Remington's Codes and Statutes 1915, secs. 5933–1 to 5933–8.

WYOMING.....Laws 1915, ch. 72, secs. 1–6 (apparently supersede Laws 1913, ch. 81).

REFERENCE INDEX BY STATES.

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5199-5201.....Legitimation, methods of.
5201.....Name.
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597-598.....Marriage and divorce; inheritance; legitimation, methods of.
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Laws 1915, ch. 12, secs. 1-3.....Abandonment, desertion, nonsupport.
Laws 1917, ch. 56, secs. 12-14.....Marriage and divorce.

ARIZONA:

Revised Statutes 1913, Civil Code, sections—

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2853.....Legitimation, methods of.
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Deering's Code of Civil Procedure 1915, secs. 1962 (5), 1963 (31). Legitimacy, presumption of.

Deering's Penal Code 1915, secs. 270 as amended by Laws 1917, ch. 168; 270b, 270d, 271, 271a, 273h. Abandonment, desertion, nonsupport.

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7049.....Inheritance.

Laws 1911, ch. 179, secs. 1–10.....Abandonment, desertion, nonsupport.

Laws 1915, ch. 74, sec. 1 (superseded by Laws 1917, ch. 65). Marriage and divorce.

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5061.....Inheritance; legitimation, methods of.
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Secs. 4, 18	Marriage and divorce.
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1060–1064	Marriage and divorce.
1063, 1382 (10)	Illegitimacy proceedings.
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2224 (5)	Residence.
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Vol. 1 (1911), art. 6, sec. 11	Apprenticeship.
Art. 46, sec. 29	Legitimation, methods of.
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Vol. 3 (1914), art. 12, secs. 1–12	Illegitimacy proceedings.
Art. 27, secs. 484–488 as added by Laws 1916, ch. 210.	Custody.

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Ch. 83, secs. 13, 17–19	Adoption and custody.
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Ch. 151, secs. 6, 12–13, (sec. 14 repealed) 15; ch. 152, sec. 22.	Marriage and divorce.
Ch. 154, sec. 2 as amended by Laws 1904, ch. 302.	Adoption.
Ch. 212, secs. 17–18	Births and deaths, concealment of.
Laws 1902, ch. 310, secs. 1–2	Marriage and divorce.
Laws 1911, ch. 456, secs. 1–4; 5–6 as amended by Laws 1918, ch. 257, secs. 453–454; 7; 8 as amended by Laws 1912, ch. 310.	Abandonment, desertion, nonsupport.
Laws 1911, ch. 669, sec. 1	Residence.
Laws 1912, ch. 280, sec. 2	Births, registration of.
Laws 1913, ch. 563, sec. 1–7; 8 as added by Laws 1918, ch. 199.	Illegitimacy proceedings.
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3214–3224 as amended, and 3225a–3225e as added, by Laws 1917, ch. 210.	Illegitimacy proceedings.
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8697 as amended by Laws 1917, ch. 231	Births and deaths, concealment of.
8703a as added by Laws 1917, ch. 211	Illegitimacy proceedings.
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Laws 1917, ch. 397, sec. 1 (Juvenile court—illegitimate child is "dependent").	Care and support; juvenile courts.

MISSISSIPPI:

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268–283	Illegitimacy proceedings.
542 as amended by Laws 1910, ch. 185	Legitimation, methods of.
721 as amended by Laws 1914, ch. 214 (Death by wrongful act).	Miscellaneous.
1655	Inheritance; legitimation, methods of.
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Revised Statutes 1909, sections—

340	Inheritance.
341	Legitimation, methods of.
342	Marriage and divorce.
344	Legitimation, methods of.
403 as amended by Laws 1913, p. 92	Guardianship.
2370	Marriage and divorce.
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4495 as amended by Laws 1911, p. 193	Abandonment, desertion, nonsupport.
6677	Births, registration of.
8280	Incestuous marriages.
8291	Marriage and divorce.
Laws 1917, p. 151, secs. 1–10	Mother's pensions.

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Revised Codes 1907, sections—

1769	Births, registration of.
3611	Incestuous marriages.
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Revised Codes 1907, sections—

3741	Care and support.
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3760	Legitimation, methods of.
3764	Adoption.
3770	Legitimation, methods of.
3778	Guardianship.
4821–4822	Marriage and divorce; inheritance; legitimation, methods of.
8346 as amended by Laws 1917, ch. 78	Abandonment, desertion, nonsupport.
9576–9583	Illegitimacy proceedings.
Laws 1911, ch. 122, sec. 5	Juvenile courts.
Laws 1915, ch. 96, sec. 6p	Workmen's compensation.
Laws 1917, ch. 77, secs. 1–3	Abandonment, desertion, nonsupport.
Laws 1917, ch. 83, secs. 1–7 (This apparently supersedes Laws 1915, ch. 86).	Mothers' pensions.

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NEVADA:

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731, 746	Adoption; juvenile courts.
739 as amended by Laws 1913, ch. 133	Mothers' pensions.
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6450	Births and deaths, concealment of.
Laws 1913, ch. 111, sec. 26 as amended by Laws 1917, ch. 233.	Workmen's compensation.
Laws 1913, ch. 272, secs. 1–2	Abandonment, desertion, nonsupport.
Laws 1915, ch. 131, secs. 1; 2 as amended by Laws 1917, ch. 11; 3–8.	Mothers' pensions.

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- Ch. 83, sec. 1 (3d)....Residence.
- Ch. 87, secs. 1; 2, Supp. 1913, p. 161; 3–12....Illegitimacy proceedings.
- Ch. 174, sec. 3....Marriage and divorce.
- Sec. 18....Inheritance; legitimation, methods of.
- Ch. 175, sec. 7....Marriage and divorce.
- Ch. 181, sec. 2....Adoption.
- Ch. 196, secs. 4, Supp. 1913, p. 462; 5....Inheritance.
- Ch. 204, sec. 4....Illegitimacy proceedings.
- Ch. 278, sec. 14....Births and deaths, concealment of.

Supplement 1913, p. 163 (1911, ch. 134, sec. 12)....Custody.

Supplement 1913, p. 518 (1913, ch. 57, sec. 1)....Abandonment, desertion, nonsupport.

Laws 1915, ch. 132, secs. 1–10....Mothers' pensions.

NEW JERSEY:

Compiled Statutes 1910—
- Vol. 1, p. 184, secs. 1–34....Illegitimacy proceedings.
- Vol. 2, p. 1784, sec. 118....Births and deaths, concealment of.
- P. 1923, sec. 13 as amended by Laws 1917, chs. 139 and 246....Inheritance.
- P. 2022, sec. 1....Marriage and divorce.
- Vol. 3, p. 3874, sec. 169 as amended by Laws 1918, ch. 63....Inheritance; legitimation, methods of.
- P. 3981, sec. 35....Illegitimacy proceedings.
- P. 4004, sec. 133....Illegitimacy proceedings.
- P. 4012, sec. 4 (superseded by Laws 1911, ch. 196, sec. 9)....Residence.

Laws 1911, ch. 95, sec. 12, as amended by Laws 1914, ch. 244....Workmen's compensation.

Laws 1911, ch. 196, sec. 9, as amended by Laws 1912, ch, 14....Residence.

Laws 1912, ch. 103, secs. 1–3....Illegitimacy proceedings.

Laws 1913, ch. 331, secs. 1–3....Custody.

Laws 1914, ch. 5, sec. 1....Legitimation, methods of.

Laws 1915, ch. 173, secs. 1–3....Legitimation, methods of.

Laws 1916, ch. 45, sec. 1....Abandonment, desertion, nonsupport.

Laws 1917, ch. 61, secs. 1–5....Abandonment, desertion, nonsupport.

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- 1850 as amended by Laws 1915, ch. 69 (Statutes 1915, Appendix, p. 106)....Inheritance; legitimation, methods of.
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Domestic Relations, ch. 14, sec. 5	Incestuous marriages.
Sec. 24	Legitimation, methods of.
Sec. 86	Guardianship.
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Sec. 113	Adoption.
Vol. 4, Judiciary Law, ch. 30, sec. 4	Illegitimacy proceedings.
Vol. 5, Penal Law, ch. 40, secs. 480, 481	Abandonment, desertion, nonsupport.
Sec. 1843	Illegitimacy proceedings.
Sec. 2461	Births and deaths, concealment of.
Vol. 6, Poor Law, ch. 42, secs. 60–75	Illegitimacy proceedings.
Public Health, ch. 45, sec. 383	Births, registration of.
Vol. 7, Second Class Cities, ch. 53, sec. 185.	Illegitimacy proceedings.
Vol. 8, Workmen's Compensation, ch. 67, sec. 3.	Workmen's compensation.
Parson's Code of Civil Procedure, 1918, secs. 1745, 1749, 1759–1760.	Marriage and divorce.
Bender's Code of Criminal Procedure, 1918, secs. 838–886.	Illegitimacy proceedings.

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2083, Supp. 1913, p. 2087 (as amended by Laws 1917, ch. 135).	Marriage and divorce.
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5438b (14), items 6 and 8, Supp. 1913 (Laws 1913, ch. 109, sec. 14).	Births, registration of.
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Laws 1913, ch. 244, sec. 1 as amended by Laws 1917, ch. 136; secs. 2–8. — Abandonment, desertion, nonsupport.

Laws 1915, ch. 268, sec. 13 as amended by Laws 1917, ch. 384. — Births, registration of.

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- P. 955, secs. 247–248....Illegitimacy proceedings.
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- Vol. 2, p. 2004, secs. 52 (in part repealed by Laws 1917, No. 192, pp. 444–445), 55. — Inheritance; name.
- Vol. 3, p. 2445, sec. 31 (in part repealed by Laws 1917, No. 192, pp. 443–444). — Legitimation, methods of.
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- Vol. 5, p. 5852, secs. 52–57 (Laws 1907, No. 293, p. 429). — Illegitimacy proceedings.
- Vol. 6, p. 7303, sec. 20 (Laws 1915, No. 402, p. 900, sec. 14). — Births, registration of.

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CODES, REVISIONS, OR COMPILATIONS USED.

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Alaska	Compiled Laws 1913.
Arizona	Revised Statutes 1913.
Arkansas	Kirby and Castle's Digest 1916.
California	Deering's General Laws 1915.
	Deering's Penal Code 1915
	Deering's Civil Code 1915.
	Deering's Code of Civil Procedure 1915.
	Deering's Political Code 1915.
Colorado	Revised Statutes 1908.
Connecticut	General Statutes 1918.
Delaware	Revised Code 1915.
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	U. S. Statutes at Large.
Florida	General Statutes 1906.
Georgia	Park's Annotated Code 1914.
	Supplement 1917.
Hawaii	Revised Laws 1915.
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Illinois	Hurd's Revised Statutes 1917.
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Kentucky	Statutes 1915.
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Nebraska	Revised Statutes 1913.
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New Jersey	Compiled Statutes 1910.
New Mexico	Statutes 1915.
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